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

Monday 25 June 2018 (Afternoon)
In Committee Room 5

PRESENT:

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

—–

IN ATTENDANCE:

Justine Thornton QC, Counsel, Department for Transport
Tony Rimmer, Petitioner Representative

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WITNESSES:

Peter Miller, Head of Environment and Planning, HS2 Ltd
John Furnival
Edward Sutton

IN PUBLIC SESSION
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1. THE CHAIR: Welcome back to another week. I understand HS2 want to say a few words before we start with the petition.

2. MS THORNTON QC (DfT): Yes, thank you Sir. I’m going to address you on three points. The first is about the Government’s response to your first special report. The second is to update the Committee on the applicability of NFU assurances, which was a query raised by Mr Bedson last week and also to update the Committee on the project’s position in respect of access to severed land and access tracks, as that’s been a concern raised by the Committee. And then thirdly is to address you on the progress that’s been made since last week, in light of the approach the Committee asked us to consider adopting.

3. So, on the first matter, it’s a very short statement simply to say that the Government has today published a report responding to the Committee’s first special report which was issued on 24 May 2018. I understand the Committee has been provided with printed copies so I don’t propose to spend any time going through the contents but simply to say that the report responds to the recommendations of the Committee and sets out the further work the promoter will be progressing. So that was on the first matter.

4. On the second matter, I’m in your hands as to how I take this. I could give you a brief explanation of our response on the applicability of the NFU assurances and our position on access to land and access assurances. Mr Colin Smith is behind me and can update you further or answer questions but in short, firstly, clarification has been sought as to whether and how assurances given to the NFU apply to affected farmers and rural businesses along the line of the Phase 2A route and you may remember that the NFU assurances are divided into two parts: part A, which were assurances given to the NFU and are of general applicability, for example the setting up of an agricultural liaison service; and then part B was specific assurances that were given to particular farmers on a case by case basis. So, just to confirm that the assurances in part A will and are intended to benefit farmers affected by the proposed scheme, whether or not they’ve petitioned the Bill, so that’s the first point to make clear; and then, secondly, I know that concerns have been expressed by the NFU and others that farmers who hadn’t petitioned the Bill were not entitled to the same protection as regards the part B assurances as those
farmers who have petitioned the Bill and so we’ve reflected on that and wish to acknowledge those concerns. So, we’re adopting the following position which is as follows: the promoter is proposing to write to all affected farmers, affected by the proposed scheme and who have not petitioned against the Bill, to make them aware of the assurances to the NFU and to invite them to contact HS2 if they consider there are assurances within part B which directly relate to their landholding and would provide them with reassurances as to the potential impact of the proposed scheme on their landholding. The promoter will then discuss with the farmer which of those assurances are relevant to their holding and should be offered to them and, if accepted, will enter all assurances which are given before the petitioning period closes for the House of Lords Select Committee and they will be entered on the register of assurances and undertakings. So, we hope that recognises those concerns. I should say, we will provide a note on this because clearly there’s a bit of information on here but it’s just I wanted to orally update the Committee. So, those are the NFU assurances.

5. And turning to the terms on which assurances on access to severed land parcels and over HS2 tracks have been offered to affected landowners, there was a particular concern that people were being asked to pay for maintenance. So, again, we’ve reflected on those concerns and carefully considered them. The position is as follows, if I say there are five principles but, again, I can put them in a note. For access tracks or rights sought which pass directly over or under the railway infrastructure, so for example under viaducts, we must, for safety reasons, retain ownership or control of the track over which it passes and we will grant rights of access to affected landowners. Similarly, if there’s an access track which is shared between different landowners, again, in the first instance we will retain ownership but, frankly, there we’re open to discussion if the landowners can come to an arrangement amongst themselves.

6. And so in those two circumstances we will, as I say, retain ownership and it will remain necessary for the landowner to enter into an agreement with us but, in general, we will seek to ensure that any restrictions placed on the use of the track are only those necessary to ensure the safety and integrity of the operational railway and its infrastructure. So, for example, only a certain weight of vehicle can go over, rather than as has been expressed in the past providing that rights of access were for agricultural purposes only, and in response to the particular concern addressed as regards
maintenance of those tracks, we will not in general require or impose an obligation on the landowner to contribute to the cost of maintenance of that track. Instead what we propose will happen is that in the event a landowner causes damage to a track, it will be for the promoter to seek to rely on existing rights and remedies under the common law rather than imposing an obligation on them to contribute to maintenance.

7. Now, in other cases, so in other words where it’s not a track that passes directly over or under railway infrastructure, or it’s not a track in shared ownership between landowners, we’re prepared to consider entering into an assurance whereby the landowner retains, himself or herself, retains ownership of the land or the track and it would revert to the landowner, subject to us being granted rights of access for the purpose of maintaining the infrastructure. Now, that would require the landowner to enter into an agreement with the promoter and that would need to include an obligation on the part of the landowner not to interfere with the right of access or the track. So, again, that simply puts on a contractual footing the rights we would have at common law.

8. So, I appreciate that’s quite a lot of information. We will put it in a note but, in short summary, what we’ve sought to do there is address the concerns expressed by the Committee and, importantly, try and strike the right balance between seeking to place affected landowners in the same position as far as practicable as they were before whilst at the same time protecting the safety and integrity of the operational railway.

9. If the Committee would like to hear from Mr Smith, he’s behind me and very happy to address you further or it may be that you would prefer to see the note and come back to us later.

10. THE CHAIR: Both the NFU and the severance land seem to be relatively simple and very much welcome so we’ll have a look at the note in detail and reserve the right to ask for more evidence.

11. MS THORNTON QC (DfT): Thank you.

12. THE CHAIR: But I don’t think we require any more just now.

13. MS THORNTON QC (DfT): Thank you. And then, sir, the third was to update
the Committee on progress made since last time we were before you. Having reflected on the steer you gave us last week, we have carefully scrutinised all the petitions coming up this week. We have taken a number of assurances through our internal approvals process. We have discussed them today with Mr Rimmer. I hope the Committee will consider that significant progress has been made. I think Mr Rimmer, he will obviously wish to address you on this himself, I think he would agree that progress, some progress has been made since Friday as far as he’s concerned but, as I say, I will leave him to address you on how he would like to take matters this afternoon.

14. THE CHAIR: Well, thank you, and more generally I understand the pace of change which we asked for required a number of people to work exceptionally hard over the period of time since we last met and I very much appreciate that. I think it will lead to us getting a better quality of product overall and no doubt we’ll further refine that over the coming weeks so I’d encourage HS2 to continue to behave in that way with up and coming petitioners so we can really focus on where we feel we can make a big difference. Thank you.

15. MS THORNTON QC (DfT): Yes, thank you.

16. THE CHAIR: And do pass on formally that thanks to HS2.

17. MS THORNTON QC (DfT): Yes, will do.

18. THE CHAIR: So, to today’s business. Mr Rimmer?

19. MR RIMMER: Thank you, sir, and thank you to the Committee. I welcome your input last week. I just wish it hadn’t been over a weekend and on a train journey down here that we’ve had a raft of assurances and paperwork because it probably does mean that we are going to take up more time than may have been necessary with you if this had been done in an orderly manner, for which apologies. As has been alluded to, we were called at 5.00 p.m. on Thursday to ask for us to be down here for this morning to go through things. I asked on Friday morning that, so we could have a meaningful discussion when we were down here, we have the draft assurances in advance. We had none as of Friday night so that’s why I said to Ms Thornton that there’s been progress since Friday because we’ve had some assurances since Friday. They haven’t satisfied everything. So, with your approval, what I would like to do is go through what we had
originally put forward but where –

20. THE CHAIR: No, you’ve actually asked for my approval, I’m giving you some feedback. No, we’re going to just look at things where you haven’t agreed. You’ve got about half an hour per petitioner for your part. I listened about the timescale. In an ideal world, much of this would have been sorted before but late information is better than no information so I don’t want to go over where there have been assurances agreed. I want to focus entirely –

21. MR RIMMER: I’m not going over the ones where they’re agreed, sir.

22. THE CHAIR: Right.

23. MR RIMMER: Where we have either got one that in part covers things and I feel we need more or ones where we haven’t had any.

24. THE CHAIR: Right, fair enough.

25. MR RIMMER: Sorry if I didn’t make that clear.

26. THE CHAIR: Okay, maybe there was a misunderstanding. Let’s get stuck into the substance.

27. MR RIMMER: Yes, that’s fine. There are a number of generic ones, the ones in particular which once again may have been covered off is all the relevant NFU assurances to apply. So, with your approval, I won’t cover that on every one because that will speed it up.

28. THE CHAIR: Yes.

29. MR RIMMER: The other one is professional costs and the petitioner –

30. THE CHAIR: We’ve discussed those; let’s move on from that.

31. MR WIGGIN: Professional costs?

32. THE CHAIR: Yes, we’ve discussed that with other petitioners. We’re not discussing that again.
33. MR RIMMER: No, but I’m raising it that – yes.

34. THE CHAIR: No, no, absolutely. We noted that you raised it with all six but as with other people, we’re closing off the decisions on that because we’ve made a decision in principle.

Furnival Farms Ltd

35. MR RIMMER: Yes, okay. So, without further ado, if we could move to Mr and Mrs John Furnival trading as Furnival Farms and if I could ask for A218(2) to be brought up please and I would like to call for a very brief introduction, and I assure you it will be brief, John Furnival to just explain a very brief bit about his farm.

36. THE CHAIR: Do you want to bring him up? Hi, welcome.

Submissions by Mr Furnival

37. MR FURNIVAL: Hello. My name is John Furnival. This is not just about me and my wife. We have farmed at Manor Farm for our children. Furnivals have farmed at Manor Farm for four generations and we would like our children and their children to have the opportunity to farm at our home business. This is about the people who we employ who depend upon us for their jobs, their homes and their families who we provide accommodation for. We employ eight members of staff and local contractors and suppliers who will also be affected. We’ve invested £650,000 into infrastructure into a highly profitable New Zealand style dairy system. We in fact had a New Zealand builder who worked in conjunction with many local tradesmen to build our parlour and dairy. We also had to build tracks covering the whole grazing area, a ring main water system and electric fencing for each individual paddock.

38. HS2 propose to take away 120 acres of valuable feed for our 650 cows. These cows have been specifically bred over the past 20 years for this purpose for walking to their feed and being aggressive grazers. We’ve invested a lot of time and expense in breeding cows to fit this system. Only 10% of the dairy producers in this country currently do this type of system. The cows will be very difficult to source. We would be very reluctant to destroy a proportion of our herd whilst the works are being carried out. However, we may have no choice. The system depends upon the cows being able
to walk to their feed for 300 days of the feed. Access to this feed is essential, with the water supply and electric fencing again being integral. Without these, it becomes unviable. This infrastructure is essential for the daily operation of our business. The cows need free movement over the whole milking platform on a daily basis. The cows cover the whole farm on a 25-day cycle and the business is built around one hectare being able to feed four cows and the loss of 120 acres leads to a reduction of at least 200 cows and two members of staff and the fixed costs would increase as well. The cows are run on a sustainable and natural dairy operation, eating grass and being outside 90% of their life. Manor Farm is a unique farm and we would have great difficulty in finding another like that.

39. The Whitmore tunnel would have virtually solved all our problems and I hope the Committee will review this when they’ve heard my case and the others in the Madeley and Whitmore tunnel area. I would like to pass you on to my agent who will go into greater detail. I am available for any technical questions. Thank you for listening.

**Submissions by Mr Rimmer**

40. THE CHAIR: Thank you, Mr Rimmer?

41. MR RIMMER: Thank you, John. So, salient points, we’ve got 650 cows, all year round grazing, their feed coming from grass. Over recent years, well over £650,000 has been invested in this business. If I could move to A218(3). So, you’ll see there, permanent land take approximately 52 acres. Temporary land take on top of that during construction, 69 acres. So, it’s a total during construction of 121, hence where the figure of 200 cows comes from and we can’t just switch cows off and buy them back in on this system.

42. So, if we could then bring up A218. Thank you very much. Sorry, A218(4), sorry. You can see how it works with the farm in the centre. You can see just the overall area and in the bottom right-hand photograph you can see how the cows are moving across and cross the highway. If we move on then please to A218(5), the red lines on there are the network of internal cow tracks. Now, those are essential for getting cows out during all types of weather because the key with a grazing system is getting the cows out and the reason I’m emphasising it there is access to the severed land which we’ll come to.
43. So then moving on to 218(6), the key issues we are looking at are impact on the business, temporary possession powers, access, minimising land take, accommodation works, Whitmore to Madeley tunnel, costs which we’ve already covered.

44. So, just to put that impact on the business, if we look at 218(7), we’ve done a rough calculation based on the accounts that show the impact on the loss of land during the construction of the 121 acres which effectively leads to £170,000 per annum loss of profit per year over that seven-year period. So, you can see the substantial impact that this is having on this business, hence why we’re worried.

45. So, if we move on to the first of the assurances we require which is A218(9) on temporary possession. As we’ve mentioned, with this sort of dairy business you can’t just turn cows off. With TB issues that may or may not happen, and there have been cases in the area, we could have difficulties with getting rid of cows when land is taken.

46. MR WIGGIN: Sorry, is the farm shut down or not? Are you shut down?

47. MR FURNIVAL: Pardon?

48. MR WIGGIN: With TB?

49. MR FURNIVAL: Not currently. We have been in the past.

50. MR WIGGIN: But you’re okay now?

51. MR FURNIVAL: Currently. All the neighbours are down; my neighbour lost 50 cows last week.

52. MR WIGGIN: So, you could sell cows at the moment if you had to?

53. MR FURNIVAL: As of today, we could sell cows.

54. MR WIGGIN: Yes, thank you.

55. MR RIMMER: Yes. Despite the assurance that the NFU have got, the 28-day notice, we have asked that for this business that a minimum of six months’ notice is served for any temporary land take which was assurance 1 we asked for and we’ve had no comment from HS2 on that to date.
56. Assurance 2 which relates to drawing A218(10) please, where the blue circle is there is where the photograph was with all the cows crossing. With all the construction that is going on in that area, we would still need to be accessing the land on the opposite side of Manor Road there and we have requested that an underpass is put there because we believe with the construction going on with the bridge and everything there, it could be extremely difficult crossing the road to get cows out.

57. THE CHAIR: Sandy?

58. MR MARTIN: Sorry, Mr Rimmer, the area on the other side of Manor Road is going to be part of the construction area, isn’t it?

59. MR RIMMER: Part of it is.

60. MR MARTIN: Well, all the stuff there that’s brown and the bit with the green ring round it. I mean, I can’t imagine there’s very much safe space there for cows to go while the construction is going on, is there?

61. MR RIMMER: Well, as we’ll hear there’s area 8 that I’ve got the cursor over at the moment that’s available. As we’ll hear, with an assurance there’s possibly going to be area 7 available and then we’ve got areas 1, 2, 3 all up at the top there that are accessible or we believe could be accessible that would be needed.

62. THE CHAIR: Bill Wiggin?

63. MR WIGGIN: No, that’s okay.

64. THE CHAIR: Sandy, do you want to come back?

65. MR MARTIN: No, sorry, I’m looking at P732, which is HS2’s plan for the construction period. We’ve got haul routes. We’ve got the temporary material stockpile. We’ve got the compound. I mean, I can’t imagine anybody taking their cows from one side of Manor Road to the other under those circumstances, I’m afraid. But maybe I’m being ignorant there.

66. THE CHAIR: Carry on.

67. MR RIMMER: I will carry on. We then move to assurance 3, which was access
to areas 1, 2 and 3, which were showing on A218(10). Which was that it’s looking like there’s no access to those and we requested that the brown topsoil storage site, which is close to where we requested for the crossing point, or the underpass, is moved up to there. Because we can see no reason why those areas cannot be utilised for topsoil storage, which then enables that area to be grazed, which keeps more cows.

68. THE CHAIR: Which makes more sense of your original request. Okay.

69. MR MARTIN: Yes, that’s sensible.

70. MR RIMMER: So that was assurance 3, we’ve had no comment on that to date. We then move on to assurance 4, which relates to area 4, where we asked for access being maintained during construction. Sorry, I’m just referring to the assurance that just came through.

71. THE CHAIR: That’s fine, if you pause occasionally that’s fine.

72. MR RIMMER: Okay, thank you. We’ve got a partial assurance on there. It was the wording of it we wanted to work on. We haven’t had satisfactory on it as yet, whether that is something we can work on and save you the time. I don’t know if that’s something that when we get to the end on these, if I can reserve the right to raise them how we deal with it.

73. THE CHAIR: So what will happen is you have your say. It will go to HS2 who will reply. You get a final word and some conclusion comments, which I try to keep to a minimum and won’t allow you to introduce anything new.

74. MR RIMMER: Okay. That’s fine.

75. THE CHAIR: So you will get a right to reply.

76. MR RIMMER: Yes. So we then move on to assurance 5, which once again we’ve had a partial one. The concern that we have raised on the assurance that we’ve had, the assurance relates to the additional provision. Now if the additional provision does not take place we still need the assurance. But the assurance tells is that the additional provision is going to take place. So it’s sort of chicken and egg, if that makes any sense to you?
77. THE CHAIR: Are you talking AP1?

78. MR RIMMER: It’s referred to in the assurance as just ‘the additional provision’. It doesn’t say whether it’s AP1 or 2.

79. THE CHAIR: And what’s the substance?

80. MR WIGGIN: Maybe somebody can help us with what the provision is.

81. MS THORNTON QC (DfT): Sorry?

82. MR WIGGIN: What provision are they talking about please?

83. MS THORNTON QC (DfT): I think AP2? Well the wording in the assurance simply says, ‘That subject to the successful formation of an additional provision’.

84. THE CHAIR: Okay. So I’m being advised it hasn’t been published yet. Let’s assume it will be published. Let’s assume it will go through. If there are substantive changes there will have to be another additional provision. So I think we’ll be satisfied one way or the other. You’ll either be satisfied with what you’ve got or there will be material changes.

85. MR RIMMER: So we’ll have the opportunity to come back?

86. THE CHAIR: You’ll have the opportunity to come back but my understanding is everyone’s working towards only having two additional provisions. So I think we’re working towards the petitioner’s satisfaction.

87. MR RIMMER: So we then move on to looking at areas 5 and 6, which are on there. Now those are areas that have not been taken but they have no access during construction. They could be landed as available, particularly if we moved the topsoil storage, or the topsoil storage moved from the brown area. It gives a greater block of land that is accessible for grazing and we’ve referred to where there are other opportunities to move that area to. We have on that one, that was assurance 5, once again it relates to the additional provision.

88. So we then move on to assurance 6, which relates to the flood alleviation area, area 7 on there. We’ve asked for an assurance that the works to create that flood
alleviation are done at the same time as the bridge, which will be an enabling work. Because in our belief the flood alleviation should be created before they take the area of land. It seems to make common sense. Then, having created that flood alleviation that land would be back and available to us for grazing in conjunction with area 8, which helps keep us more cows. That is subject to change if an additional provision comes in. So it could vary, we’ve learnt this morning on that. But as long as we’ve got the protection of what happens if it doesn’t have the additional provision.

89. THE CHAIR: Yes. Although theoretically everything can change on an additional provision so I wouldn’t get too fixated about what might be in an additional provision.

90. MR RIMMER: Area 8, or assurance 8 relates a culvert under the embankment, or a culvert to be constructed as part of the embankment, to be shown as position 1 on A2018(12) with the approximate green line there. Now that was, the cows come down from Manor Farm and can walk straight up. Because there is going to be a culvert there though the flood alleviation, it struck us as a sensible point where cows could then walk out to the land post scheme to get to the area all around Ivy House there in as short a distance as possible. HS2 has sought to put forward an alternative, which I’m sure we’ll hear about later. But there route takes us a much longer route with walking cows. We’ve worked out that that would lose 20% productivity with the extra walking. So we’ve got a partial assurance but it doesn’t solve it for us. So the existing, or the culver that is to be put in there as part of the design, we would like it to be utilisable by cows. That is that assurance.

91. Assurance 9 relates to area 2 on this plan. You’ll see the two red lines. Previously there was a very convoluted route for getting the cows up onto that bridge to cross the railway once it has been done. We wanted that straightened on both sides because the shorter distance the cows walk, the less energy they use, the more milk they produce. Trying to turn cows around corners is not the easiest. So straighter lines are best. We felt it was possible to do it along those embankments. We’ve had an assurance that the area to the bottom side of the railway can be done. They seemed to have omitted to do one on the top. So we have a partial assurance there.

92. We then come to assurance 10, which relates to the existing cow track number 3
on the same plan there which HS2 required a construction and maintenance roadway to be put in there. We’ve requested that that roadway is built of a standard that can be used by cows rather than having two tracks there which would obviously take more land. One could serve the purpose of both.

93. MR WIGGIN: If you could just tell the Committee how that would be different?

94. MR RIMMER: Well at the moment we’ve got a sleeper track that the cows walk on. I can’t imagine HS2 will want to drive their maintenance vehicles and everything down a sleeper track. So they would be constructing a new one, which we would envisage would be a roadway or something that cattle could walk on. We would then remove the sleeper track so we’re getting more land back into production provided the cattle could use the HS2 roadway. Our understanding is it is only going to be used for limited maintenance access.

95. MR WIGGIN: Seems fair, thank you very much.

96. MR RIMMER: And then at the end of it, which is the area circled blue, labelled number 4 there is a route and a bridge under the viaduct there. We want that track extended to get to that viaduct so that we can get underneath easily with the cows. So that is what assurance 11 is. Assurance 12 relates to area 5 on the same plan there. Without that access at culvert 1 that we mentioned early on, we’d have difficulty getting to that area of land. It was just flagging that up again there as part of that one.

97. We then move on to minimising, mitigation and land take. We had assurance 13 we requested which related to reducing the newt habitat at areas 1 and 2 because that is prime grazing land close to the farm. We felt it could be moved up to the area and if we had A218(14) in front of us please? It could be moved up to the area crosshatched red which is a corner and small area that wouldn’t be any use. It would just help provide more grazing land close to. We’ve had not even a partial assurance on that one.

98. On 14, which was landscape mitigation, which was reducing the tree planting and hedging on areas 3 and 4, we’ve had a partial assurance that has said it can be done on area 3 but not on area 4. We can’t work out why we can have it on one and not the other.

100. MR RIMMER: Area 5 is required for West Coast Main Line equipment. We’ve had an assurance on that. We’ve got an assurance on that that relates to the additional provision.

101. THE CHAIR: Okay.

102. MR RIMMER: Sixteen, which is the habitat area around the balancing pond number 6, we felt that could be reduced and reorganised in that sort of area, particularly with the roadway, the access route that’s in there to it. There could be some jiggling around there that would reduce land take. We asked that that was looked at and we haven’t received anything on that one.

103. THE CHAIR: Okay.

104. MR RIMMER: Seventeen relates to land take for tree planting and landscaping adjoining the cemetery at number 7. We felt really that was excessive because we didn’t think people there would be too worried.

105. THE CHAIR: Okay, let’s move on.

106. MR RIMMER: And there is already screening there as you’ll see from the photographs at the beginning that there was tree planting there. Then assurance 18, we’ve had some dialogue with HS2 on that and we feel we’re making progress so if you’re happy I won’t go into detail on that.

107. THE CHAIR: Yes, 19?

108. MR RIMMER: Assurance 19, which relates to drainage, we’ve had an assurance. It’s the wording of it which causes us concern, which very much centres on, it says, ‘An appropriate drainage consultant’. We wanted to know what defined ‘appropriate’. We felt for agricultural land it should be a drainage consultant who is aware of agricultural land, rather than just a civil.

109. THE CHAIR: Yes.

110. MR RIMMER: We’ve asked that it should be that. That’s still in discussion, we
haven’t had it back as yet.

111. THE CHAIR: Yes, that’s fine. I noticed a nod. Move on.

112. MR WIGGIN: You’re winning, keep going.

113. THE CHAIR: Sorry, I won’t notice next time.

114. MR RIMMER: We then move on to assurance 20, which is clarification of the clarification of the definition of agricultural when land is handed back. Hand in hand goes assurance 21 that relates to soil sampling. In particular we have asked that the soil sampling includes organic matter because with this grazing system the organic matter, which often isn’t tested, with soil testing it’s often the nutrient value that’s looked at rather than the organic matter. That is now coming into the knowledge of farmers. We wanted it to include that. The assurance we’ve got still hasn’t included that and we’ve asked that it is.

115. THE CHAIR: Okay, the remaining points are very general so I’m going to come to HS2. I want to focus on things to do with this farm, not go over things that we have already done. So with your permission, HS2?

Response by Ms Thornton

116. MS THORNTON QC (DfT): Thank you very much, sir. Can I just put up three initial points? First of all, Mr Martin was entirely correct to point out that unfortunately the reality is there is construction activity here which will impact on this farm during the construction period. So what we have done to address that is in one of the assurances, which is P859(5). It’s under the heading ‘working group’, 18.7, ‘Appropriate representatives of the promoter and the petitioner will form a working group to collaborate to consider farming activities at Manor Farm that can be reasonably be maintained during construction of the proposed scheme and any restoration period thereafter.’ Then it sets out the duration and the meetings and developing terms of reference. So in my submission, sir, a number of the points raised by the petitioner, for example getting the cows across Manor Road, is exactly within the remit of the working group, which can work out how best to keep this farm going during construction.

117. MR WIGGIN: We always get to the same point, which is why hasn’t this been
done already? Why should we believe that it’s all going to be fine now that there’s a working group when you could have done this last week? It happens every time we have a farmer. Every week.

118. THE CHAIR: Sorry, just a second, Sheryll. I just want to give HS2 an opportunity to answer that and then come to you.

119. MRS MURRAY: It’s just this relates to it as well.

120. THE CHAIR: Go on then, go for it.

121. MRS MURRAY: Again, at 18.8, we’ve got until the opening of the House of Lords petition period. We don’t actually know when that’s going to be here. This Committee is sitting. We’re hearing the petition. I raised this twice last week.

122. THE CHAIR: In fairness to HS2, it has been relatively recently we’ve raised that.

123. MRS MURRAY: Yes.

124. THE CHAIR: I think next time we’ll draw you up on it. I wouldn’t expect it to be in any future communication with petitioners. We’re back in your hands.

125. MS THORNTON QC (DfT): Yes well, I mean, sir, the balance to be struck here is between the cost of providing an underpass, which is at least £800,000 if not more, versus having an arrangement with the petitioner, a local traffic management plan, to ensure that his cows can cross will HGV and HS2 traffic can also move along the road. So that’s the way in which we see these sorts of levels of detail being sorted out. But the cost to us at this stage does seem not reasonably practicable. But that’s our response; it’s a working group.

126. MR WIGGIN: Sorry, I didn’t hear that.

127. MS THORNTON QC (DfT): It seems to us at the moment the cost means we should take the effort with the working group because we think we can come up with a solution which allows cows to cross a road and HS2 construction traffic. That is the purpose of the traffic management plans and the local traffic management plans which are in the code of construction practice. But I can ask Mr Miller to give evidence on that if it would be helpful. That’s the approach we’ve taken during construction. Then
we move to operation. If I could ask for P735(4) to be put up? Now this is our aspiration for construction. In the right-hand area there, there was a floodplain, which was of concern to the petitioner and one of the areas next to the floodplain, adjacent to the left, where the cursor now is, was an area he wishes to be returned to him for grazing once the railway is operation. So our proposal, and this is our aspiration, is that the cows can come across Manor Road there. We will work with the petitioner to construct a track that the cows can use to enable them to come to the point and cross there at point B under the viaduct.

128. Now the petitioner’s response is that he would rather that the cows went under the culvert, an existing culvert. But that will be, we estimate, £1.2 million to widen that into a track suitable for cows. It seems to us that the proposal we’ve got here, which I’ve highlighted in red is an example of where we can accommodate the petitioner at a more reasonable cost.

129. THE CHAIR: Sheryl?

130. MRS MURRAY: How much further would the cows have to go using that and how much time? Have you asked the petitioner how much extra time per milking period it would take?

131. MS THORNTON QC (DfT): If I could put up P735(5) please? So our proposed scheme cattle route below the viaduct is 600 metres. The petitioner’s underpass route is 141 metres and I’ve put the cost there. Just to give some context to the distances, the current route –

132. MRS MURRAY: You’ve got the cost of provision. Have you asked the petitioner how much economic effect that would have on his daily operations? I think it’s fair if we see both sides before if we’re expected to make a recommendation.

133. MS THORNTON QC (DfT): Yes, I don’t have that information to hand. It may be that Mr Rimmer can answer on that aspect.

134. MRS MURRAY: So you didn’t think to actually ask for that?

135. MS THORNTON QC (DfT): No I’m sure the question has been asked. It’s just I can take instructions on that and come back with a note if that would be helpful.
136. THE CHAIR: That would be helpful. You were about to say how far the existing route was as that will put it into context.

137. MS THORNTON QC (DfT): Yes, the current route if we go from point A there to Manor Farm where the cows will start their journey is approximately 400 metres. So those are the key points I wanted to make on construction and operation. In terms of the more specific points made by the petitioner, I don’t propose to say anything further on the Whitmore tunnel as I think that’s already been addressed by the Committee.

138. THE CHAIR: Thank you.

139. MS THORNTON QC (DfT): Secondly, on the six month notice period for temporary land take, the promoter is able to agree to three months’ notice period. That’s consistent with the assurances given to the NFU, for temporary land take this is. But we can’t go to six months because that’s not consistent with the NFU assurance. I’ve already addressed the cows crossing Manor Road. The temporary stockpile, if I could ask for P735(7) to be put up please? Now this, to orientate the Committee, ‘E’ is the current position of the stockpile and locations ‘H’ and ‘G’ are where the petitioner’s suggested it. It may be hard to read the text but essentially the reasons we don’t feel we can agree to that are because G, you can see community allotments are there in writing at the box there. There’s then a community sports field and car parking there. There’s Madeley Cemetery in the middle around about there. Then there’s also another house, Hay House, I think it’s called, there. So those are the consequential impacts of moving the temporary stockpile to those locations. It’s for that reason that we felt unable to agree to that.

140. THE CHAIR: How about H?

141. MS THORNTON QC (DfT): That’s affected by Hay House and also the West Coast Main Line.

142. THE CHAIR: Right.

143. MR WIGGIN: I’m sorry I don’t understand how it’s affected if it’s a temporary soil dump.

144. MS THORNTON QC (DfT): Well, in the same way that it has an impact on Mr
145. MR WIGGIN: What, Hay House can’t graze?

146. THE CHAIR: Sandy, have you got a question?

147. MR MARTIN: Well it’s probably a question for Mr Smart, actually. I’m sorry I haven’t got my spectacles on.

148. MS THORNTON QC (DfT): Perhaps I can call Mr Miller to answer the question?

149. MR MARTIN: Mr Miller, sorry. I wondered whether the stockpile, the temporary material stockpile needed to be next to a haul route? Because there’s no way of accessing H is there? I mean, if I was going to be loading or unloading material of any sort, whether it’s topsoil or anything I’d want to have somewhere to unload them all and load them into. There doesn’t seem to be anywhere next to H.

150. MR WIGGIN: It’s there on the trace.

151. MR MARTIN: On the trace? But the trace is actually a viaduct at that point.

152. MR WIGGIN: It’s not beneath H, if that’s where they wanted an underpass.

153. MR MARTIN: Well if Mr Miller could give us some idea of whether or not it is possible.

154. THE CHAIR: Can we change Mr Furnival for Mr Miller and can we ask for his advice because there does seem to be some confusion? We can stand down the petitioner. Great.

Evidence of Mr Miller

155. MR MARTIN: So I suppose my question, Mr Miller, is: is the presence of Manor Road crucial to the position of the material stockpile?

156. MR MILLER: Yes, it is, and I think you’ve probably already given the answer because there’s a haul route though there and you can see the yellow line on this exhibit about how that’s operated. That’s the main sort of construction haul route for the big heavy plant that we’ll be using. You’ll remember we looked at it on here. This is the
long viaduct over the West Coast Main Line and we’ve explained the complexities of the embankment. As you go further to the north eastwards you then get into the cutting. So there’s a lot of earthworks going on here and they’ve got to be handled temporarily so that we can both build up embankments, do the cuttings where we’ve got more material than is perhaps necessary in this area and it’s got to be handled. That’s our consideration there. You can see the satellite compound there. So all of our kit and equipment will be in that location.

157. THE CHAIR: Any questions? Sandy, any questions?

158. MR WIGGIN: Well I must ask though, the purple area next to Hay House could be accessed as well from the trace, couldn’t it?

159. MR MILLER: It could do. Also I think you’ll remember when we went and did our site visit, getting close down to the West Coast Main Line the ground is getting very water logged in that area. Now the River Lee does sort of move away from the railway in that location. But it is all pretty wet ground in that location. We’ve already heard about the drainage issues on the other side of the land in – I’ve forgotten the name of the petitioner.

160. MR WIGGIN: It might benefit from a bit more soil then?

161. MR MILLER: It might do but it will also, as you know through other evidence that we’ve given, it can cause blockages and it will push the water in a different direction. So we’ve located this particular site here on slightly higher ground, keeping away from the flood plain. I appreciate that takes up the ground on the petitioner’s farm but that’s our consideration of how that will operate.

162. THE CHAIR: HS2?

163. MS THORNTON QC (DfT): Mr Miller, while you’re there could for A218(14) to be put up please? Could I ask you to respond to the concerns expressed by the petitioner in relation to area 3, 1, 4 and also 7 about ecological mitigation?

164. MR MILLER: Yes. Area 3, I think we’ve given an assurance to say that there’s some flexibility on the landscape type mitigation there. This is the sort of thing that we’re trying to blend and get hedgerows and a bit of planting in to deal with an elevated
road in this location. So it moves from a road which is essentially on the ground, it comes down from that hill where we stopped in the minibus that day down towards Madeley. But that road will go up and over the new railway. So what we’re trying to do is we’re trying to blend the railway into the landscape insofar as we are able because it will be quite a high structure.

165. THE CHAIR: Sheryll?

166. MRS MURRAY: Is the West Coast Main Line subject to any landscaping? Because if I remember rightly this is higher than the West Coast Main Line?

167. MR MILLER: We are considerably higher than the West Coast Main Line here. You remember the West Coast Main Line is really in the river valley there. That’s about a metre, a couple of metres high.

168. MRS MURRAY: The reason for my question, Mr Miller, is you seem to be very emphatic about screening the new railway but there is already the West Coast Main Line there that isn’t screened.

169. MR MILLER: Oh, I see what you mean, yes. It is true that if you’re indicating that it’s a bit noisy and it’s a bit visual there, you are quite right. But we are changing the road in this location so that will be elevated even above HS2. So the road itself will change quite dramatically. So that will be elevated within that valley. We’ve got a bit of landscaping and a bit of planting alongside. Now I think what will happen is that we will make some adjustments in here with the additional provision. In our reports today we highlighted the fact that the viaduct will be lowered in this location. So we’re looking quite carefully about what that actually means over this landholding anyway.

170. What we think is going to happen is that the embankment – sorry, is there a mouse? Thank you very much. The embankment here is going to be a bit lower than we’re currently showing. So the footprint either side will come inwards. We think we won’t need to do so much drainage work. So this drain here and that which would lead up to the culvert, which is currently in the scheme design, is likely to disappear. It’s likely that this area of flood retention is going to disappear. So I think that the nature of the land holding here is going to change with the decisions that have been made just recently about the scheme design.
171. Just one last thing on that – that gets us into a place where this access road, which we put in here and we’ve just shown you on the plan, will change. We think that gets us into that better route for moving the cows around. But it will also mean in area 4 here that the landscape, this bit of hedgerow and planting area just on that slither there, will probably be drawn back into an embankment, which is of a much smaller footprint. This is generally the approach we will be taking anyway with the detailed design through the environmental minimum requirements, that we will shrink the footprint from that which is designed today.

172. THE CHAIR: Justine Thornton?

173. MS THORNTON QC (DfT): Thank you. I don’t have any further questions for Mr Miller.

174. MR WIGGIN: Can I then? The newt ponds, one and two. You’re normally pretty good at making…?

175. MR MILLER: Oh, yes, we’ll be making adjustments on there. I think we’ve written to that effect.

176. MR WIGGIN: Thank you.

177. MS THORNTON QC (DfT): Just for completeness sake, area number 7, the screening for the cemetery. Could you address the Committee on that?

178. MR MILLER: Yes. As part of the Bill plans we reinforced the area around the cemetery. That in part is to do with the elevation of the road here. I think we’ve recently given an assurance to the parish council and I think Staffs County Council, I believe, I’d have to double check that. But we are going to reinforce a bit of planting in this location here so that the ambiance of the cemetery is protected as far as possible for those people who are using the cemetery on this particular sensitive occasions.

179. THE CHAIR: Thank you. Justine Thornton?

180. MS THORNTON QC (DfT): Then, sir, if I could just put up P859(2) to take the Committee through the assurances is respect of the different areas. So 4.1 request 4, area 4, ‘The Secretary of State will require the nominated undertaker to use reasonable
endeavours to maintain access from Manor Road to area 4 during the construction of the proposed scheme.’ Then further down the page at the bottom, request 6, area 7, ‘Subject to the successful promotion of an additional provision the Secretary of State will not require the use of area 7.’ Then over the page, down to request 12 at 12.1, access to area 5, ‘The Secretary of State will require the nominated undertaker not to restrict access to area 5 where reasonably practicable during operation of the proposed scheme for the purposes of the petitioner’s access.’

181. Then the final two comments, sir, were with reference to appropriate drainage consultants. Following discussions today we are able to add in a reference to appropriate agricultural drainage consultants, which we hope will meet the concern expressed there by Mr Rimmer. Then, finally, with reference to organic matter and the definition of agricultural. We’ve added into an assurance, ‘Data from the soil surveys including organic matter will be used to set a target specification for the soils within the petitioner’s holding, which will be used to return agricultural soils in order to enable their former use prior to the construction of the proposed scheme.’ Again we hope that meets the concerns expressed there. I hope therefore, sir, I have addressed the extent of the concerns raised.

182. THE CHAIR: Yes and thank you for the progress that’s been made. Mr Rimmer, any concluding comments?

183. MR RIMMER: If I can just pick up on a few points. The working group, whilst we welcome the assurance we would like some indication on timescale because we don’t want to be in that position of dealing with it.

184. THE CHAIR: When do you want it started?

185. MR RIMMER: As soon as possible.

186. THE CHAIR: What does that mean?

187. MR RIMMER: The first meeting within a month of today.

188. THE CHAIR: Okay.

189. MR WIGGIN: Is that reasonable?
190. MS THORNTON QC (DfT): Yes.

191. MR MILLER: Yes.

192. THE CHAIR: Brilliant. Next?

193. MR RIMMER: On the underpass, whilst we welcome working with the traffic management plan and if that can be achieved that’s great. Can we have an assurance that that traffic management plan will work with us to do it? Because if we’re excluded from any dialogue on that it’s no use.

194. THE CHAIR: You will be included.

195. MR RIMMER: Where we come to the track and the culvert where there’s been a figure of £1.2 million quoted, I just cannot believe and I would ask that someone checks this, that £1.2 million to widen an existing culvert to allow three cows to pass, three cows abreast.

196. MR WIGGIN: Didn’t the culvert disappear in the latest iteration?

197. MR RIMMER: Well we hope so.

198. MR MILLER: Sorry, the culvert is likely to disappear entirely, yes.

199. THE CHAIR: Okay. Your scepticism is noted around costs.

200. MR RIMMER: On the stockpile relocation on P735(7) that was used. We never asked for it to go to location G. It could have gone into the right as we look at that map of area G over there. On the comments on that, with a grazing cow system, with cows out in February that land in position H cannot be wet. If you wish I can call Mr Furnival to comment on that but I can assure you it’s not.

201. THE CHAIR: That’s useful additional information. We don’t need more evidence.

202. MR WIGGIN: It wasn’t just the wetness that was the problem though. It was the access as well when we were pushing for that. Is that right, Mr Miller?

203. MR MILLER: Well, I showed you that on the diagram.
204. MR WIGGIN: Yes. How are they going to get there?

205. THE CHAIR: Okay, Mr Rimmer? Did you finish? Sorry.

206. MR RIMMER: I’m just checking that there isn’t anything else that I’ve omitted and then I’ll be done.

207. THE CHAIR: Okay, good, go on then.

208. MR RIMMER: The only other point is where we talked about going under the culvert with it changing the proposal. I think was it P859(2)? No that was the assurances.

209. MS THORNTON QC (DfT): P735(4).

210. MR RIMMER: Yes, P735(4). We’ve taken the cows round from A to B, that is where we earlier on made the point that that would lead to a 20% reduction in milk yield in those cows with going that additional distance from point A to B rather than going from A straight up to wherever that crossing would have been about there where someone’s put the cursor.

211. MRS MURRAY: Because the cows lie down, they’d be working more and cows that lie down produce more milk, yes?

212. MR RIMMER: Thank you.

213. THE CHAIR: Any further points?

214. MR RIMMER: No further points. Thank you.

215. THE CHAIR: Thank you very much. Thank you for petitioning. Let’s hear the next petitioner, the Sutton family. I’d seek to conclude the whole of this petition, the Sutton family, by 5.55 if possible to give you an indication of timing.

216. MR RIMMER: Is that for all?

217. THE CHAIR: No, no, for the next petitioner, 5.55. Sorry, I don’t mean to trouble your heart. That would be excessive even for a speedy Committee. Are you calling anyone?
218. MR RIMMER: We will be calling Mr Sutton.

219. THE CHAIR: If Mr Sutton wants to take a seat at the beginning that would be helpful and then you can call him as and when. Are you okay? Yes.

220. MR RIMMER: Yes. Ready.

221. THE CHAIR: Okay, Mr Rimmer?

D and S C Sutton

222. MR RIMMER: Thank you, Committee. Without further ado, D and S C Sutton, Oakhanger Hall, if I could ask for A215(2) to be put before you and if I can ask Ed Sutton, one of the family members, to give a brief resume of their very different system. What I would say, this dairy unit operates in a very different way to the last one. All the land affected is a distance from the main unit so they are using it to cut forage in on a housed system rather than an extensive grazing system.

223. THE CHAIR: Okay.

224. MR RIMMER: So anything we said on the last one…

225. THE CHAIR: Don’t worry, we’ve seen many dairy farmers already so we’re expecting there to be issues, particularly Mr Wiggin.

Submissions by Mr Sutton

226. MR SUTTON: Thank you Mr Chairman, ladies and gentleman. My name is Edward Sutton. I farm in partnership with my two brothers and parents under the trading name of D and S C Sutton. We run a housed dairy system from Oakhanger Hall where the main farmstead is situated and support the three holdings affected by the scheme of support land for our farm. But it is operated as one farm. Our farm covers about 750 acres in total and we milk in the order of 500 cows and 300 head of young stock. Over the last fifteen years we’ve invested a significant amount of money in the order of £3 million into facilities at Oakhanger Hall, cattle housing, milking parlour. We’ve been able to do that because we have the amount of land we’ve got to have the size of herd. Three holdings affected by the scheme are Gonsley Green Farm, Lane End Farm and Sutch Farm. These holdings are critical to us because they allow us to grow
forage and cereals that we transport to our main Oakhanger Hall farm for feed. It allows us to export slurry and manure to meet our NVZ obligations. Also we graze young stock at all of those three holdings through the summer. With that very brief introduction I’ll pass you over to Mr Rimmer.

**Submissions by Mr Rimmer**

227. MR RIMMER: Thank you. So if we can move on to 215(4). That’s just shows the significant investment over the last 15 years that the holding’s made totalling £3 million really to set the unit up for the next generation and everything moving forward. Moving on to 215(5), just a very simple summary. Permanent land take 134 acres. Temporary land take during construction is also 134 acres. So the total of 268 acres affected by it so a sizeable impact. Now 215(6) is really to give you an indication as to where the main holding is, which is at the top. Could you pass me the mouse there? Thank you. Oakhanger Hall, which is up there, that is where everything is located. We’re in an area to the east of Crewe where land is at a premium. Over the years they have developed southwards with the three holdings. So they are accessing all that from the north, is their quickest and easiest route in. That is what we’re showing there.

228. Moving on to 215(10) those just really show the nature of the land pre scheme large areas very suited for forage production, either whole crop grass to be carted in. So 215(11), the main issues we are looking to raise and discuss is the impact on the business, reducing land take and mitigation, access and accommodation works to enable that business to continue with losing all this land. 215(12), to put it in a financial basis, with the 268 acres being taken it effectively creates based on recent trading activity, £73,000 loss per annum. So over the seven years of temporary land take it equates to £510,000 and £36,000 for the land that’s being lost in permanent loss.

229. THE CHAIR: Sheryl?

230. MRS MURRAY: Could I just ask would you still – because I understand the cattle are housed and this is to provide feed for the cattle. Would you still be operating the farm with the same amount of head of cattle if you had less feed but just buy it in?

231. MR RIMMER: That I think would be ideally the realistic way we would deal with it.
232. MRS MURRAY: Thank you.

233. THE CHAIR: Bill Wiggin?

234. MR WIGGIN: I just couldn’t help but notice that the cost of production is 25 pence per litre here and you had a margin per litre on the last one of 26.65. It does seem significantly different.

235. MR RIMMER: Very different systems.

236. MR WIGGIN: Yes, but the milk price doesn’t change that much. Anyway, on you go.

237. MR RIMMER: So moving on to the assurances we have sought. Starting with reducing of land take and mitigation at Gonsley Green Farm. Areas 1 and 3, we identified there, the assurance we’ve had is that they would modify the design for efficient management. We have requested that the design is reduced to facilitate more land available for agricultural use.

238. THE CHAIR: Have you got a map of this area?


240. THE CHAIR: Thank you.

241. MR RIMMER: So we have an assurance but the wording of it we’re seeking to make clearer. Rather than modifying the design we want the area reduced. And rather than it be facilitating the efficient management, that it will make more land available for agricultural use. On assurance 2, they have given us an assurance and having included that it will make more land readily available for agricultural use. So I’ve no issue with that one and I just wonder why the wording that we’ve used on the assurance 2 cannot be used on assurance 1.

242. THE CHAIR: Okay.

243. MR RIMMER: Assurance 3, which relates to the tree planting on the boundary in area 3 in the middle there, we have had no assurances on. We would like that reduced because we’re trying to maintain as much land available for production as possible.
244. THE CHAIR: Okay.

245. MR RIMMER: We then move on to area 4, which was tree planting at Lane End. We’ve got an assurance on that. So we move on to Sutch Farm, assurance 5, we’ve had an assurance but we’re back to efficient management rather than agricultural land.

246. THE CHAIR: Okay, same point. Okay.

247. MR RIMMER: Same point.

248. THE CHAIR: Right.

249. MR RIMMER: We then get to access and assurance 6. If we could have A215(19) please. We have got an assurance but it doesn’t do anything. We are trying to access to this area in blue here on the right-hand plan. The land is accessed from the north and we have asked that where I’m putting the cursor that we have an access route in there to access this land. We haven’t had one as yet.

250. THE CHAIR: Sheryll?

251. MRS MURRAY: How would you access that land if a route wasn’t put in? Is there an alternative route?

252. MR RIMMER: It’s an alternative route at the south at Wrinehill Road.

253. MRS MURRAY: Is there Chorley something Lane?

254. MR RIMMER: Chorlton Lane is what comes in here, which is the ideal route but south of that blue block of land Wrinehill Lane is somewhere down here.

255. MR SUTTON: No access from the south, it’s a separate route.

256. MR RIMMER: It’s a separate one, there is no access from the south, sorry.

257. THE CHAIR: Okay.

258. MRS MURRAY: Thank you.

259. MR RIMMER: So there’s no other access.
MRS MURRAY: Thank you.

THE CHAIR: Sandy?

MR MARTIN: How’s it accessed at the moment in that case?

MR RIMMER: It is accessed via, you’ve got the West Coast Main Line here. There is an access under there because it’s all part of the one holding. It’s down through there.

MR MARTIN: Right.

MR SUTTON: There’s a bridge under the existing West Coast Main Line.

MR RIMMER: A bridge under the existing West Coast.

MR MARTIN: Right, thank you.

THE CHAIR: Mr Rimmer?

MR RIMMER: Okay. Assurance 7, we’ve got an assurance that it will be during the operation but it’s how we access it during construction is what we still haven’t got addressed, how we get to that block of land.

THE CHAIR: Okay.

MR RIMMER: On assurance 8, water supplies, we’ve got an assurance on. On assurance 9, this is very similar to what we had on the last one where we had the formation of the –

MR WIGGIN: You’ve got an assurance on the last one though on the slurry storage, didn’t you?

MR RIMMER: We got an assurance that a group was going to be, I’m trying to think of the phrase they used, the working group was going to be formed that would do that. On this one, unless it’s changed since we met two hours ago, we asked that that same assurance and same working group format was utilised because they have a different one on here. I haven’t had chance to check whether it’s happened between walking from over there to here.
THE CHAIR: Okay. We’ll hear from HS2 on that. Let’s move on.

MR RIMMER: Apologies to be so vague on it.

THE CHAIR: No, no, that’s fine. Just tell us what you want and we’ll work our way through it.

MR RIMMER: Which effectively covers assurances 9 and 10. On assurance 11 where we asked that if we’ve got to get planning consent, which would obviously involve ecological surveys and so forth, the ecological surveys that are carried out by HS2, were doing numerous ones, would be made available to us. Interestingly, we have had an assurance that has said, no, they won’t make those available to us but they’ll pay for us to have our own ecological surveys done, which to me –

THE CHAIR: It makes no sense but we’ll hear about that in a second.

MR WIGGIN: There will be a reason.

THE CHAIR: Right, have you finished, Mr Rimmer?

MR RIMMER: Yes because the other ones are then generic ones.

THE CHAIR: Excellent. No questions from the Committee so Justine Thornton?

Response by Ms Thornton

MS THORNTON QC (DfT): Thank you, sir. Yes, we are very happy to provide a working group if that would meet the concerns expressed. So that’s a ‘yes’.

THE CHAIR: Thank you.

MS THORNTON QC (DfT): I’m going to call Mr Miller to address the issues around ecological mitigation. Just before I do that, can I put up P860(3)? This is the assurance letter that went out today or over the weekend, 7.1, I think this meets the concern expressed about Lane End Farm. ‘The Secretary of State will require the nominated undertaker not to prevent the petitioner’s access to the land at Lane End Farm during the operation of the proposed scheme.’ I don’t know whether that meets the concern? Could I now ask Mr Miller to respond to the other points please?
286. THE CHAIR: Yes absolutely. You’re almost a permanent fixture.

**Evidence of Mr Miller**

287. MS THORNTON QC (DfT): Staying with this document and going to P860(2) so the page before. Mr Miller, you can see request 1, ecological mitigation, ‘The Secretary of State will require the nominated undertaker where reasonably practicable to modify the design of the proposed ecological mitigation in the blue land.’ Just to orientate yourself that’s at 860(7). You can see there areas 1, 2 and 3. Then if we go back to 860(2), ‘To modify the design of the proposed ecological mitigation in the blue land for the purposes of facilitating the efficient management of the petitioner’s agricultural holding following the completion of the construction of the works.’ Mr Miller, you’ve head the concerns expressed about the reference to the word ‘modify’ rather than ‘reduce’ and the reference to efficient management of the agricultural holding. Could you give the project’s position on that please?

288. MR MILLER: Well I think the area probably will reduce. Sorry, can we go back to the map? They’re quite large area of land, no question about that, in areas 1 and in area 2. Now I think what we can do is, well we might be able to look at the words and adjust that to get it closer to what the petitioner is looking for. But it will be something along the lines of adjusting the mitigation, appropriate use of mitigation, and then reducing the land in each of those locations.

289. MS THORNTON QC (DfT): Sheryll?

290. MRS MURRAY: Mr Miller, is this another area where it’s new tree planting?

291. MR MILLER: This is great crested newts in these locations.

292. MRS MURRAY: Okay.

293. MR MILLER: And for areas 1 and 2, I think we can make some movement in the way the petitioner has requested.

294. MRS MURRAY: Because it looks to be more than two ponds in each of those areas, doesn’t there?

295. MR MILLER: Yes. You can see in these plans here that there is considerable
construction work taking out a considerable area of land. I know the petitioner is concerned about that both from a railway perspective and from an environmental perspective. What we are finding is that we’ve got quite a few ponds that have to be thought about. I talked to you about this previously about the cautionary approach in some of the assessment. We continue our survey work to get better and continued knowledge around those ponds and what’s contained within them. You know that we put in more than one pond for great crested newts.

296. MRS MURRAY: Yes, two instead of one.

297. MR MILLER: That’s right. So there is quite a lot going on here. I think we’ve got, certainly in areas 1 and 2, a chance to consolidate that. I think that through a working arrangement with the farmer I think we can get that back into productive use. I think we can probably shift the wording a little bit on that.

298. THE CHAIR: Excellent, thank you.

299. MR MILLER: On area 3, that’s a little bit different. We think we can’t move in the same way about that because of the ecological information that we have and what we’re trying to achieve by way of mitigation through there. But that is certainly something we can look at in detailed design. So I think we can make some movement on areas 1 and 2 but area 3 is more important from an ecological perspective. But there may be some movement later on but we don’t think we can do anything on that at this moment in time.

300. MS THORNTON QC (DfT): Thank you.

301. THE CHAIR: Sandy? Sorry Sandy’s just got a question then I’ll come back to you.

302. MR MARTIN: Area 4, you’re retaining, that’s a sort of bund, isn’t it, along there?

303. MR MILLER: Yes there’s a big earthwork in there. That’s right.

304. MR MARTIN: It does occur to me that there’s probably not an awful lot of agricultural value between that bund and the existing West Coast Main Line, certainly if you go north form footpath 7. If you see where the arrow is now, that bit, all of that bit
north from footpath 7 is going to be a very thin sliver of land. Would it not be possible to do some of your ponds in there rather than on the other side of the line?

305. MR MILLER: It might be. I would need to just double check on the parliamentary plans and see what area of land we’ve got in there.

306. THE CHAIR: I think this is all something that a working party – I think we’ve got the right direction of travel.

307. MR MILLER: Yes.

308. THE CHAIR: We’re not going to come down to anything definitive.

309. MS THORNTON QC (DfT): Sir, if I could?

310. THE CHAIR:

311. MS THORNTON QC (DfT): It’s something that Mr Rimmer would like me to draw attention to as well. We’ve actually got an assurance on this, P860(2). It’s the one headed ‘gradient’, ‘The Secretary of State will require the nominated undertaker to use reasonable endeavours to reduce the gradient on the embankment illustrated as plot 4 in order that the petitioner’s land holding is more readily available for agricultural use.’ So, to put the matter shortly, it’s the petitioner’s request that we do what we can to return that to agricultural.

312. MR MILLER: Yes, but I think the further elaboration on that is if we are able to pull the earthwork back and we’ve got that sliver of land, that triangle of land that Mr Martin has pointed out, it may be possible for putting some ponds and ecological mitigation in that location. The only proviso on that is that we have to put these sorts of ponds in certain locations within a certain distance of the effect on the great crested newts. So that’s why we’re a bit more concerned about area 3 than the other areas. But it may be possible for us to look at that.

313. THE CHAIR: Very good.

314. MS THORNTON QC (DfT): Thank you, Mr Miller. Could you turn up A215(19) please? Mr Miller, I think you heard the concerns expressed by the petitioner about access along the red route there.
315. MR MILLER: Yes.

316. MS THORNTON QC (DfT): What is your understanding?

317. MR MILLER: There are adjustments to Chorlton Lane here. And we can’t really see it very well, I don’t know if you can zoom in? There are a couple of what look like bunds in the background here. It doesn’t appear on here that there is an access down to this plot of land, which is marked in blue on the plan. Forgive me; we were just talking about that. I think we’ve got to have a look at that. I don’t think that – it doesn’t seem right that we haven’t got an access. We normally do have accesses shown on these plans. It may be something when we check the parliamentary plans that there is an access point actually noted and it’s just going onto the farmland. But it looks as though there might be something missing.

318. THE CHAIR: Sheryll Murray?

319. MRS MURRAY: Mr Miller, if you look at P716 it clearly shows actually that there isn’t any alternative access to that parcel of land.

320. MR MILLER: Yes.

321. MRS MURRAY: Maybe it’s something that HS2 overlooked?

322. MR MILLER: It might be; it might be. I will have to just double check the access point. Because access points sometimes on parliamentary plans are just shown by a very little arrow.

323. MRS MURRAY: Because Wrinehill Road that Mr Rimmer referred to is a significant distance from this parcel of land.

324. MR RIMMER: I was in the wrong place there. Apologies, when I mentioned Wrinehill Way, I was thinking of a different block. That was my mistake. There is no access to that unless we have an access of Chorlton Lane.

325. THE CHAIR: Okay. That’s clear. Justine Thornton?

326. MS THORNTON QC (DfT): Thank you. P860(5) please? This was the concerned expressed about the wording of the request as regarding environmental
surveys. It’s 11.1, ‘The Secretary of State for Transport will require the nominated undertaker to both agree to the employment of a qualified independent ecological expert and reimburse the reasonable costs in order to undertake any and all necessary ecological surveys of the petitioner’s landholding to ensure the provision of slurry storage is compliant with all necessary regulatory frameworks.’ Could you comment on the promoter’s position in that respect?

327. MR MILLER: Well, I think it goes some way to answering the question basically. Sorry, I’m not with you on the point.

328. THE CHAIR: Rephrase the question for Mr Miller.

329. MS THORNTON QC (DfT): Yes, the request from the petitioner was that we provide all environmental surveys, and the petitioner was concerned that this was a response we’d given.

330. MR MILLER: Oh, I see what you mean, so whether we would just hand over the ecological surveys.

331. MS THORNTON QC (DfT): Yes.

332. MR MILLER: Well, I think this answers it, that we will provide that ecological expertise.

333. THE CHAIR: Sorry, just to be clear, if you’ve done a previous ecological survey of the farmer’s land, will you share it with them?

334. MR MILLER: Oh, sorry. Yes, I don’t see any particular problem with that. There is only one instance where I think there might be a problem with that, with certain protected species, where we’re not supposed to be sharing information, but even that I think can be overcome.

335. MRS MURRAY: If it’s on this land, surely.

336. MR MILLER: Well, I don’t see any particular problem with this.

337. THE CHAIR: Okay, Justine Thornton.

338. MS THORNTON QC (DfT): Thank you, I have no further questions for Mr
Miller and that concludes my submissions.

339. THE CHAIR: Thank you very much. Very succinct. Mr Rimmer, any concluding comments?

340. MR RIMMER: If we could go to assurance 7.1, which is on the previous page, I think, to the one that’s showing in front of us there. Sorry, the previous, previous page. That deals with access during the operation of the proposed scheme. That is quite clear that is operation. What we need is access during construction as well. So, that assurance goes partway, but doesn’t give us everything. And on assurance 6, whilst that gives us comfort – and this is where the Wrinehill Road comes in – the additional cost with having to access that land through Wrinehill Road is going to be significant, so we have asked that they look at trying to get us access in from the north rather than off the south at Wrinehill Road and that is what hasn’t been addressed in the assurance that we requested.

341. THE CHAIR: We’re going to ask the working group to look at that.

342. MR RIMMER: Yes.

343. THE CHAIR: Okay.

344. MS THORNTON QC (DfT): I’m so sorry.

345. THE CHAIR: Have you finished pausing for breath?

346. MR RIMMER: I’m fine.

347. MS THORNTON QC (DfT): I’m so sorry.

348. MR RIMMER: No, nothing else.

349. MS THORNTON QC (DfT): Sir, I do have just a point of information on the planning surveys. Apparently the reason is that the surveys – any surveys that we’ve produced may not be suitable for the planning application, which is what the petition is concerned about, so we’ve – we thought we’d gone one better and offered to pay for the surveys to be acquired by them in the form suitable for their planning application. So I hope that clarifies it wasn’t an intent to hide any information.
350. THE CHAIR: That seems very sensible. No further questions, so the Committee will now meet in private. We’ll sit again at 7 o’clock. I don’t want to use all that time up by putting your two heads together, but any discussions you can have to make sure that our short time together is as sufficient as possible, that would be much appreciated by the Committee.