**Petition Reference:** Christopher, Wendy and Geoffrey Barton (142 AP1/1)

**Lead:** Clare Parry (Counsel)

**Who Asked:** Clare Parry

**Question:** Clare Parry offered the committee a note on the compensation available to Mr Barton regarding the use of his access.

**Question:**

**Answer:**

**QUESTION ARISING FROM THE HEARING OF PETITION NUMBER 142 (BARTON)**

1. The Committee asked for confirmation as to: (1) the amount of compensation payable for acquiring rights over the Petitioner’s land and (2) whether compensation would be payable for any losses occasioned to the Petitioner (for example loss of profit) by virtue of the right of access being taken over the land.

   **Rights acquired by the Secretary of State**

2. The parcels of land forming the Petitioner’s access fall within Schedule 8 of the High Speed Rail (West Midlands-Crewe) Bill (“the Bill”)¹. The purpose for which the land may be acquired or used is identified following AP1 as being “Provision of access for construction and maintenance”.

3. By section 5(2) of the Bill the power to acquire land specified in Schedule 8 of the Bill may only be exercised so as to acquire rights for purposes specified or so as to impose restrictive covenants for such specified purposes. Therefore the effect of the Bill is that the Secretary of State may only acquire rights over the Petitioner’s access track for the purposes of access.

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¹ Under the Bill all the relevant parcels were plots 92, 96, and 115 in the Parish of Colwich in the Borough of Stafford) Under AP1 the relevant plots are now numbered AP1-10, AP1-16 and AP1-17 in the Parish of Colwich in the Borough of Stafford.
for construction and maintenance. The Promoter explained in Committee why a limited amount of access for construction and maintenance over the Petitioner’s property was unavoidable.

**Compensation payable**

4. The Bill has the effect of substituting (for purchases authorised under the Bill) the following for section 7 of the Compulsory Purchase Act 1965:

> “In assessing the compensation to be paid by the acquiring authority under this Act, regard shall be had, not only to the extent (if any) to which the value of the land over which the right is acquired or the restrictive covenant is imposed is depreciated by the acquisition of the right or the imposition of the covenant, but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”

5. There will therefore be seen that there are two aspects to the compensation. Firstly compensation for the depreciation of the value of the land acquired by the acquisition of rights. Given the very limited rights acquired in cases such as the Bartons this compensation is likely to be very limited. The Promoter is not able to give a likely figure but this element of the compensation is likely to be of a low order.

6. Secondly the petitioner can obtain compensation for any injurious affection or depreciation in the value of the land retained by the landowner due to the impact of the whole HS2 scheme and not just the rights acquired. This means that if the construction or use of HS2 can be shown to have depreciated the value of the land retained by the petitioner then that loss is one for which the petitioner will be compensated under the Compensation Code. The Petitioner could also claim for loss of profits that could be made from the land insofar as they are not also included within the assessment of depreciation in land value.

7. Therefore loss of profits or losses caused by the taking of access over the land are in principle capable of being recovered under the Compensation Code, so far as they can be shown to result from the Promoter’s works.
8. If the Promoter and Petitioner are not able to agree as to the value of any future compensation claim, then under section 1 of the Land Compensation Act 1961 the dispute can be referred to the Upper Tribunal (Lands Chamber) for independent determination.