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

Wednesday 27 June 2018 (Afternoon)

In Committee Room 5

PRESENT:

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

IN ATTENDANCE:

Jacqueline Lean, Counsel, Department for Transport

WITNESSES:

Robert Birchill and William Murray

IN PUBLIC SESSION
## INDEX

<table>
<thead>
<tr>
<th>Subject</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Robert Anthony Birchill</td>
<td>3</td>
</tr>
<tr>
<td>Submissions by Mr Birchill</td>
<td>3</td>
</tr>
<tr>
<td>Evidence of Mr Murray</td>
<td>9</td>
</tr>
<tr>
<td>Response by Ms Lean</td>
<td>11</td>
</tr>
</tbody>
</table>
247. THE CHAIR: Mr Birchill, before I invite you to present your petition I would say to you the most effective petitioners we’ve had so far tell us up front what they would like and why. And if they can’t have that, what we can do to mitigate. The other thing I would say to you is the Committee have already made an in principle decision not to tunnel and would strongly advise you to use your time on that basis rather than trying to persuade us to overturn a decision, which have considered over a number of weeks if not months.


249. THE CHAIR: Okay, over to you.

Robert Anthony Birchill

Submissions by Mr Birchill

250. MR BIRCHILL: Thank you. I apologise for being late. We had a bad journey down. My voice is a bit husky but let’s see what I can do. My name is Robert Birchill. I live at Tortola Birch Tree Lane, Whitmore Heath, Newcastle under Lyme. I’m accompanied today by my neighbour Bill Murray who you’ve probably seen before. With the Chairman’s permission I would like to call on him towards the end of my presentation to clarify a couple of the technical issues relating to the construction of this tunnel and issues relating to ground investigation. The reason why I am here is because I was allowed to petition on the brief, why was my property or other interests are specially and directly affected by this Bill. I received the promoter’s response to my petition but I felt their response did not address the issues I raised. This is why I’m here.

251. Could I have A230(1) please? What you see in front of you is Whitmore Heath and the tunnel porous portals, which are there in the middle. This, believe it or not, has been in design for five years and what you still see is now work in progress. High Speed Two have not decided exactly what they’re doing and they’re going to start work on the area, so their literature says, in October 2020. Meanwhile we’ve still got more confusion; we haven’t a clue really what’s going on. I refer with particular reference to paragraph number 2 ‘communication’ which is on page 6. In my petition I refer to
letters and emails from Alison Munro, Colette Carroll and Stephen Mildred, all employees of HS2. These letters inform me that I was in the safeguarded zone. Then I wasn’t in a safeguarding zone and so it went on.

252. To save time I’ll go over that in detail later on. The promoter’s response to this petition was spread over 2.5 pages, 900 words and the word ‘consult’ was mentioned 26 times. The letters from the HS2 employees were never mentioned by the promoter. My petition also referred to specific questions I’d put to the HS2 employees who said I was now above a deeper tunnel. I asked how the tunnel deviated from the original plan, how much deeper was the tunnel, how much longer was the tunnel and had my house moved? The HS2 employees never replied to me. I never got a reply. There was no response to any of these in the promoter’s response either. I felt the promoter had their opportunity to respond and failed. I’ve been on this journey now for over five years and sent letters to HS2, which have never had a reply.

253. We are tired of this never-ending saga. It’s a battle against an organisation, quite frankly, I don’t trust. We get no support. We have to do our own thing. It constantly plays on your mid. We love where we live. It is peaceful, quiet and pollution free. We have nature on our doorsteps. We brought our family up here. We have adapted the house to accommodate our advancing years. Hospitals, etc., a few miles away and we want to stay for five years at least. A lot can happen in five years, personally and politically. How does this Bill affect me? Simply we are blighted. However you dress it up we are blighted. For the time being I can live with it. As I said we don’t want to move so the value of our property is not a consideration. Once HS2 starts to, what I say, destroy this area, we want out.

254. What do I want from the Committee? I’m looking for a fairer, open system that is not based on confrontation. We should not be getting into disputes in the first place. The system is inflexible. It is inevitable that we end up in this state. I was told, due to public consultation, I was no longer in a safeguarded zone. That was it. ‘You are no longer blighted. The Government will not buy your property.’ No mention was made I was now in the EHPZ zone. I had to find that out for myself and what it meant. When I queried this with HS2 I was told I had little chance of success because 25% of my property is not in the zone. I protested, ‘My drive disappears. I can’t get in or out of the house.’ I pointed out my neighbour has got an express purchase; his total safeguarded
The zone was only 16 square metres. Their access was not affected. HS2 did not respond.

255. I shouldn’t say this but it’s like having a conversation with a computer or a robot. They have a fixed script and they stick to it. I spoke to another neighbour who, like me, is partly in the safeguarded zone. He also had the letter, ‘You are no longer in the safeguarded zone. The Government will not buy your property.’ He knew nothing about EHPZ. Appalled by HS2 action he sought advice from a solicitor.

256. THE CHAIR: Sorry, EHPZ, I’m acronym phobic.

257. MR BIRCHILL: I’m sorry?

258. THE CHAIR: I’m not very good with acronyms. EHPZ?

259. MR BIRCHILL: Oh, you’ve got me.

260. THE CHAIR: HS2?

261. MS LEAN (DfT): Extended homeowner protection zone.

262. MR BIRCHILL: Oh, thank you.

263. THE CHAIR: Thank you very much.

264. MR BIRCHILL: Thank you. I was hoping you’d get that because saying that all the time is terrible. A few weeks later he received a letter accepting his blight application. Now why did they not inform my neighbour and myself of this extended homeowner protection zone? There was no answer given to that. We want to be treated equally. Why is everything a battle with HS2? In theory I have five years to submit a claim under the EHPZ rules. I accept, like with everything else with HS2, there may be a few hoops to jump through. I am prepared to stay and see what happens.

265. I’m tired of battling with HS2. When we first received notice of the train coming through this area my reaction was we had to move. But we like the house; we like the area. We have, for the time being, reversed our decision and decided to stay. We’ll keep our options open and see how things develop. I’ve seen neighbours spend over 18 months battling with HS2. I have no confidence in HS2. HS2 tell us that in 2020 they will start work in this area. Now the picture you actually see in front of you of the
heath, this is still work in progress. They haven’t committed themselves or decided what they’re going to do. It’s as though they haven’t done any investigation of the ground underneath the heath. Either they have, which they apparently did a month ago but they’ve not released it. I like to think those two tubes coming out are breathing tubes because we know there’s something under there but haven’t decided.

266. As I said, the final plan is still in progress. Is that because Whitmore Heath is not hard conglomerate rock as they initially said? A crazy situation at this late stage when they’re supposed to be starting work in 18 months’ time. In the last month they have started to investigate the ground below Whitmore Heath using boreholes and geo-tech surveys. The results we are told are not available until 2019. So they’ve got less than a year from these results. In that time of course they might modify the system completely. Still we have a situation where we are blighted because we don’t know what’s happening. This could result in modifications to the tunnel. The porous portal, those are the two white shoots coming out, is a new design we think. Hopefully Mr Murray will comment on it. Last month Mr Mould told us that was the new design relating to the A53 and the rail track. Again, we’ve seen no drawings and no specifications. All this information of change of specification could have a knock on effect on the surrounding projects. They tell us that they are to start construction within two years.

267. The only thing that will not change is the definition of blight. An additional 200 vehicles, that’s predicted, including heavy goods vehicles, at the entrance to Birch Tree Lane, I’ll show you where that is in a bit, is not regarded as blight, because noise, vibration, collusion are within permitted limits. Bar Hill, which is near us, is going to get an additional 500 vehicle movements a day. Again, houses near there are not considered blighted. The specification of this area may change. There is safeguarding and the compensation packages may change. That is why we’re keeping our options open. We feel anything can happen. HS2, the Department of Transport, have purchased over 20 houses in Whitmore Heath. They have not tried to sell any of them. The question is ‘Why?’ The answer is because they know the area is blighted. There are no buyers. The only buyers we’ve got is HS2 on their terms.

268. My petition included HS2 failing to inform property owners that if they were moved from the safeguarded zone to the EHPZ zone then they may be able to make a claim under express purchase. That’s the normal rule. You have to satisfy certain
conditions but if they remove you from the safeguarded area and say you’re no longer in it then you have the right to satisfy the options to put a claim in as though you were still safeguarded. If these people had not taken or not been offered these then this could make a serious financial loss to them because they’ve been moved to an area where they’re being told they can’t get any compensation. Whereas if they’d been told they’d been moved into an EHPZ zone then they could make a claim. I think that’s a serious mistake by HS2. HS2 also make sweeping statements like, ‘You’re not in the 25% zone,’ without even visiting our properties to see what individual circumstances are.

269. I’ve been here before. I came here in March 2015 with 10 other residents of Whitmore Heath. We presented our petition to the Select Committee. Our spokesman was another resident of Whitmore Heath called Chris Dawes. He was a far more accomplished speaker than the rest of us. He had grown up in South America. He had a drawl, which was easy on the ears, and he knew about railways because his father was a senior manager in the Chilean railway system. The things he petitioned on are still relevant today. Except for the name change, nothing has changed. The question of blight has not been resolved. If anything, it’s now even more difficult to get HS2 to recognise we are blighted.

270. The five golden rings to jump through are still there. You can still be rejected under exceptional hardship – no, it was called exceptional hardship which I thought was a very unfortunate name; it’s now called ‘need-to-sell’. So you can be rejected because you’re not ill enough. Even in 2014, Chris Dawes said in his presentation you had to be assertive to get through the system. This is a mammoth task if you’re frail or you have health or dementia problems. If you’re on your own, it can be a very lonely place. Consider what you’re up against, a massive legal team bankrolled by the Government. This is not a level playing field. The opportunity was there four years ago to sort this out and it was not taken.

271. Can I have A230(4)? That’s it. I hope you can read that. Here is listed the work that HS2 claim is needed to drive this rail track through a small area of North Staffordshire. It’s frightening. We’re in a small area and the journey will take – we’ve had two viaducts, up to 20 metres high and 785 metres long. The River Lee viaduct, which is a pre-casted thing where the structures that are concrete, is in operation for 4.5 years. It’s going to be three long, high embankments up to 20 metres high and 840
metres long. There’s going to be six major road alterations. There’s going to be four cuttings including the cutting, which I’m going to talk about later. That’s going to be 600 metres long, 30 metres deep and 45 metres wide; 45 metres equals four London buses end to end.

272. THE CHAIR: Mr Birchill, sorry to stop you. I’ve listened carefully over 15 minutes and you’re making some very valid points but they’re very general. I’m keen to hear specifically what you want us to do for you. Because if you don’t tell me that we don’t stand a chance in actually being able to do it for you. So you need to focus on what you want us to do today.

273. MR BIRCHILL: I want to focus the way I’ve been handled by High Speed Two. That’s basically, why did they send me letters that I was blighted, that I wasn’t blighted, with no explanation.

274. THE CHAIR: That’s history. Going forward, what do you want to happen differently? You want the option to have your property purchased but you want to stay in it. But is there something that you’re not getting as part of the due process that you want us to ask HS2 to give you?

275. MR BIRCHILL: I want to stay where I am at the moment.

276. THE CHAIR: Right.

277. MR BIRCHILL: Okay? I have no confidence in High Speed Two. I think they more or less do what they want. The pressure I’ve been put under by High Speed Two to accept need-to-sell I think is unacceptable. Now what do you do as I am going forward? I don’t know.

278. THE CHAIR: Do you mean you’re being put under pressure to sell under the need-to-sell scheme?

279. MR BIRCHILL: To accept it. And I don’t want to accept it.

280. THE CHAIR: Well what do you want? What do you want? I still don’t know what you want so I won’t be able to give you what you want.

281. MR BIRCHILL: I haven’t asked for anything. I was called here, because I was
asked to comment, there’s nothing in the brief, I was asked to comment why my property or other interests are specially directed by the Bill. That was on the piece of paper. So, you know, I’m commenting on that. I’m not making a request at this stage and I don’t particularly want a request for something at this stage, which is kind of as it were final. Because I think down the line things will alter dramatically.

282. THE CHAIR: Right, well that’s what we do on this Committee. We listen to people’s requests and adjudicate on the report.

283. MR BIRCHILL: I’ve been misinformed because that was what was on the form.

284. THE CHAIR: Okay, do you want to call a witness or shall I move to HS2 now?

285. MR BIRCHILL: I don’t think there’s any point, quite frankly. The hybrid Bill said…

286. THE CHAIR: Sorry there’s two options. You can call a witness or I can call HS2. Once I’ve called HS2 you’ll then be able to summarise and have a few minutes. But once I’ve called HS2 normally you wouldn’t then be able to call a witness. So if you want to call a witness now is your opportunity in the procedure.

287. MR BIRCHILL: Yes I’ll call Mr Murray then please.

288. THE CHAIR: Okay.

Evidence of Mr Murray

289. MR MURRAY: Good afternoon, Mr Chairman, ladies and gentlemen. I’ve been here before as doubtless you know. I feel bitterly sorry for Mr Birchill; the treatment he’s had at the hands of HS2 particularly in the last 12 months has been dreadful. It’s been absolutely appalling. I go around and see him and sometimes he’s in an appalling state. It’s not right. When those four people went out on that afternoon that was utterly unacceptable. The man clearly has got a problem and we’ve got an organisation which is clearly quite happy to walk away from a problem that they’re making. But anyway, if I can come to my evidence I’d be grateful.

290. THE CHAIR: Can I just ask you a question? What in your mind did you think this Committee can do for Mr Birchill going forward? Rather than looking backwards
or looking at decisions already been made, what can we do to help him?

291. MR MURRAY: I see three things that can be done. I can see the Select Committee siding with Mr Birchill over blight and giving him the option as to whether he goes not when he goes. Now you may choose to modify that but he clearly satisfies the blight criteria. He clearly satisfies that.

292. THE CHAIR: Okay, that’s number 1, number 2?

293. MR MURRAY: The second one is we need a change of attitude on the part of HS2 dealing with Whitmore. We’ve had five years of it and we’ve had enough.

294. THE CHAIR: Okay, number 3?

295. MR MURRAY: Acknowledge the heath is not hard conglomerate rock; it is sand and the plans for the heath will not work.

296. THE CHAIR: Okay, well we dealt with that issue before in your evidence. Do you want to now say what you’ve come to say?

297. MR MURRAY: I will do that. The boreholes were dug in April. There is a refusal to part with that borehole information. I appeared in front of here on the 16th, whatever it was. The next day the contractors were told not to talk to me under any circumstances. Two days later I got a heavy phone call from somebody in HS2 and they were reading a script. It wasn’t their own words. It was sheer intimidation because I’d been talking to contractors. In HS2’s own words, from their own documents, and it’s page 11 of the draft code of construction practice, ‘The nominated undertaker will take reasonable steps to engage with the community particularly focusing on those who may be affected by construction impacts.’ They have done the complete opposite. They banned their contractor from talking to me. That happened conveniently the day after I was here. The heavy phone call happened three days after I was here. That’s not on. Those boreholes brought up sand. I tried to get them. This Select Committee made it clear that they would be helpful. My Member of Parliament, Sir Bill Cash, has asked for them. We cannot get them. Those boreholes show the heath to be sand. It may well be that High Speed Two want to add a comment to the borehole information to explain it, but what they should not be in is a position of providing the evidence that came from
the contractors; it already exists.

298. THE CHAIR: Okay. I get that point. What other points do you want to make?

299. MR MURRAY: I’m getting a bit emotional because of the appalling treatment he’s had. It’s the change of attitude that needs to be. They need to be open with us instead of talking at us, instead of shouting, ‘I can reassure you.’ Instead of having bouncers on the Village Hall. Instead of threatening to throw people out of the Village Hall when they show their calculations are wrong. The one thing they’ve never done is said, ‘What do you know that we don’t?’ They’ve never, ever done that. They tell us things that we know are wrong and they get nasty, really nasty. We have one civil engineer from Arup who is the complete opposite but he’s not a salesman. The ones that we see are salesmen. Their objective is to get the Bill through Parliament. They have no other objective. We’ve had 10 funerals on the heath, most of them heart trouble. I’m slated in for open-heart surgery in the next couple of weeks. This has gone on long enough. It really has.

300. THE CHAIR: I think you’ve made your points. I’ve been lenient in the way I’ve taken a witness and heard from you again so I’m going to now come to HS2. Mr Murray, if you could resume your seat that would be great. Thank you very much. I’ll come to HS2, then Mr Birchill if there’s a remaining comment you want to make that’s perfectly acceptable. Jacqueline Lean?

Response by Ms Lean

301. MS LEAN (DfT): Thank you, sir. Perhaps it’s helpful if I pick up on the blight issue. I’m sorry to go back into the past but it might be helpful just to show the Committee what has been sent to Mr Birchill. You have some correspondence starting in the exhibit packs at P832. This was a letter of November 2015, which was when the initial safeguarding decision had been taken and safeguarding directions were issued then in January 2016, which did show a part of Mr Birchill’s property being within safeguarding. So this is the initial letter in November saying part of your land will be in safeguarding. If we go over to P836 – sorry, my apologies; that’s the wrong plan. I think this is the latest safeguarding map, my apologies. So that was the original communication in November 2015.
302. In September 2017 at P835, this was the letter notifying Mr Birchill that the safeguarding arrangements had changed and that the part of his property which had previously been in a surface safeguarded area was no longer in a surface safeguarded area and explaining what the ramifications were for that for a blight notice. If we could then turn to P837 please? This was a letter written to Mr Birchill on 11 October 2017, if you can zoom in a bit, responding to a letter from Mr Birchill at the beginning of October where he requested an explanation about the changes to the 2017 safeguarding and how the introduction of the extended homeowner protection zone affected properties in his area.

303. There was an explanation. In the fourth paragraph you’ll see, ‘That previously your property or part of it was in surface safeguarded’ – changes have been made which mean that’s now been removed – ‘Your property now partially falls within the extended homeowner protection zone and partially within subsurface safeguarding,’ explaining what this scheme was and noting that it would allow affected homeowners to serve a blight notice for a period of five years. Essentially, it’s a sun-setting type provision so acknowledging that some people may have made plans based on the fact they think they’re in safeguarding and can serve a blight notice. Where that’s changed there’s a five-year period where they can apply for the same scheme essentially.

304. THE CHAIR: So how is Mr Birchill disadvantaged by that change?

305. MS LEAN (DfT): Because of the extended homeowner protection zone, he’s not. He could still serve a blight notice asking to be purchased on that discretionary basis.

306. THE CHAIR: So he would be in exactly the same position as he would have been if he’d remained within the safeguarding zone?

307. MS LEAN (DfT): Yes, that’s right. And perhaps with one slight nuance, if I may, as you’ll note at the bottom there’s a reference to the fact that in the earlier communication we forgot, we didn’t mention the extended homeowner protection zone and there is an apology for that omission. This might be the point that Mr Birchill is referring to that in terms of the extended homeowner protection zone. As you’ll be aware under the express purchase scheme, what it does is essentially to relax some of the requirements that apply in respect of a blight notice if you’re applying under blight. There’s some conditions around that, which is around if more than 25% of your property
is within surface safeguarding. So this is really explaining that because you’re not above the 25% you’re not into that automatic purchase situation. He can still serve a notice but we’re not in the ‘yes, you’ll definitely be accepted’ category.

308. THE CHAIR: Bill Wiggin?

309. MR WIGGIN: It does seem as though they’ve been in and out and in and out the whole time. Is it clear yet which you’ve decided on for poor Mr Birchill? What’s the next page say? That they’re in again or out again?

310. MS LEAN (DfT): No, the next page if you turn over, sir, is the fact that the property is under 25% within the extended homeowner protection zone does not –

311. MR WIGGIN: So now he’s not eligible for full compensation it says here. It’s not surprising he’s turned up today given the way he’s been treated, is it? What do you think?

312. MS LEAN (DfT): I apologise, Mr Wiggin. If the blight notice was accepted, you’re into the full blight territory. This is just saying that it’s perhaps unlikely a blight notice would be accepted and that could have been the same situation even before the safeguarding directions changed because of the very small amount of the property that was within safeguarding. Just noting that if a blight claim was successful you can claim reasonable professional fees but if it’s not successful then you can’t. If I may, the initial safeguarding directions were in 2015, which was after the decision, the initial route announcement. So they were drawn on the line of route at that time.

313. They were revised in September 2017 to reflect the Bill as deposited and that’s why. There hasn’t been a backwards/forwards and a backwards/forwards. There’s been the change because they were in in 2015 and their property was taken out of safeguarding when we revised safeguarding with the deposit of the Bill. But what comes in lieu of safeguarding is that extended homeowner protection zone. That’s the only change that there’s been. That is the situation as it stands today. They are in the extended homeowner protection zone and could apply to serve a blight notice but it’s unlikely it will be accepted. The letter is suggesting it’s unlikely it will be accepted because of the very small amount of land.
314. MR WIGGIN: Thank you, that’s very clear-ish. It’s not really.

315. THE CHAIR: How much is the property worth?

316. MS LEAN (DfT): I don’t have an indicative value, sir.

317. MR WIGGIN: Do you think Mr Birchill is right to feel aggrieved given the complexity of just this letter, let alone all that he’s been through for the last five to seven years? I mean, it’s not been textbook, has it, really? I mean even this letter changes its mind half way through, I think.

318. MS LEAN (DfT): Sorry, sir, it may be because – it’s not the letter changes its mind half way through. It’s saying you have not lost your entitlement to serve a blight notice under the extended home owner protection scheme; you can still serve a blight notice. What it’s then trying to do is manage expectations because of the very small parcel of land that’s been in surface safeguarding. There’s no guarantee that, had a blight notice been served back in 2015 or 2016, that the property would have been accepted again because it’s under that 25%.

319. THE CHAIR: Still with you, if you want, Bill.

320. MR WIGGIN: No, I’m –

321. THE CHAIR: Sheryll then Sandy.

322. MRS MURRAY: Could you just tell me – I know that if I had received that letter, I would probably have had to read it about five times to understand it. It’s very clear that Mr Birchall has had difficult dialogue with HS2. Did anybody think to actually go around and explain to Mr Birchall exactly what was happening with these letters, and try to explain to him and point out face-to-face, because it does seem as though communication hasn’t been as good as it should have been? And have you got any notes of any meetings that took place and any home visits to clarify things with Mr Birchall?

323. MS LEAN (DfT): I know there’s certainly been quite a lot of communications between Mr Birchall and HS2 and I…

324. MRS MURRAY: Was that face-to-face communications or was it just sending a
very complicated worded letter and thinking he understood what you meant?

325. MS LEAN (DfT): I will have to just turn around and see if somebody can give me an answer to that. I was merely going to note – I know there has been a lot of communication and I know there’s been some by email, not least because Mr Birchall, as he says, had raised a number of queries about things like tunnel depths and has there been a change. And I’ve certainly seen the emails that have been sent back in response, saying, ‘Here’s what the tunnel depth was; here’s what it’s changed to’.

326. MRS MURRAY: But a face-to-face meeting explaining to him might have been very helpful.

327. MR WIGGIN: Mr Birchall, we’re just trying to get our heads round what’s going on. Do you want to sell your house?

328. MR BIRCHALL: Not at the moment because I think –

329. MR WIGGIN: But you want to the right to do it should it –

330. MR BIRCHALL: I want the right to do it within the next five years.

331. MR WIGGIN: That seems very clear. And is that something that we can do?

332. MS LEAN (DfT): Sir, obviously, under the terms of the scheme that’s set out here, there’s five years from 2017 – September 2017 to apply under the exceptional home – sorry –

333. MR WIGGIN: Just a yes will do, or a no.

334. MS LEAN (DfT): There are schemes that can be applied to if he wants to move within five years.

335. MRS MURRAY: But they’re discretionary, yes?

336. MS LEAN (DfT): They’re all discretionary.

337. THE CHAIR: And he’s unlikely to qualify?

338. MS LEAN (DfT): Well there’s obviously the need-to-sell scheme, Sir, that
you’ve already heard about and so –

339. MR WIGGIN: Come on, Jacqueline; tell us what he can do. This is what we’re here for.

340. THE CHAIR: I think he wants some certainty and I mean, I’ve not got that; we haven’t got that, so rather than us imposing some certainty for this particular case, could you help us a little bit more?

341. MS LEAN (DfT): I think all I can say, sir, is that in terms of the need-to-sell scheme, I think Mr Mould referred to this when Mr Murray was in previously, there have been a number of properties that have been acquired or offers have been made under exceptional hardship, or need-to-sell within this area. I obviously can’t say what the outcome would be of Mr Birchall making an application under the need-to-sell, but there’s clearly, in terms of some of the criteria, there’s clearly recognition of the impact that the scheme will have on properties in this area.

342. THE CHAIR: So it wouldn’t be the end of the world if, having had a discussion as a Committee, actually instructing HS2 to make him eligible for the need-to-sell to give him a certainty, that wouldn’t be a problem? Or would it be a problem and in what way? Why should we not do that?

343. MS LEAN (DfT): I think, sir, it might depend on the terms in which we’re saying he should be eligible for need-to-sell. He is clearly eligible for need-to-sell today; the question just might be in terms of demonstrating a couple of the criteria. As I said, in terms of the different criteria that apply, there’s obviously been a recognition that properties within this area are subject to generalised blight because there’ve been a large number of property applications have been successful under the need-to-sell scheme, but that’s why I say we might come down just to the circumstances that Mr Birchall advanced as to what the basis for his reason for needing to sell was.

344. THE CHAIR: Anything else from HS2? Sandy, question.

345. MR MARTIN: Yes, sorry, Ms Lean, I just wanted to go back to the issue about the blight claim. I hope you can understand that the problem, as I see it, certainly the problem for me, if I were to receive this letter, and I’m sort of guessing the problem for
Mr Birchall, is that it might make sense to a lawyer but it doesn’t make sense to anyone else.

346. MRS MURRAY: Absolutely.

347. MR MARTIN: And given that no part of Mr Birchall’s property is within the protected zone, at all, and in fact, it’s at some distance away from the protected zone, I can’t see how he would ever be eligible for a blight claim, so why does the letter not say that? No part of Mr Birchall’s property is covered by the land potentially required during construction. If you go to P824. There is no part of his property which is covered by the scheme, is there?

348. MS LEAN (DfT): Sir, that’s completely right because none of the surface land within Mr Birchall’s holding is required for the scheme. But that’s what I referred to about the safeguarding directions having been redrawn when the Bill was deposited.

349. MR MARTIN: Yes, indeed, but your latter havered around, confusingly, about the blight scheme, but actually, he wouldn’t be eligible to the blight scheme, would he? Would he, yes or no?

350. MS LEAN (DfT): Not statutory blight, no, but that’s where the extended home owner protection scheme comes in.

351. MR MARTIN: Where does the 25% come in then? You were talking about 25%.

352. MS LEAN (DfT): That’s under the express purchase scheme. That’s centrally a discretionary or a policy overlay on how the Secretary of State will approach blight notices when more than 25% of the holding is within surface safeguarding, or the dwelling is within surface safeguarding. It essentially relaxes some of the – it says the Secretary of State won’t counter it on these basis, so that’s where the 25% comes in. If you’re over the 25% and you serve a blight notice, if you’ve got the other boxes ticked for qualifying ownership, then the Secretary of State says your blight notice will be accepted. Whereas, if you’re under the 25%, the Secretary of State reserves the right to serve a counter notice to your blight notice on the basis of what part of your land is or is not required for the scheme.

353. MR MARTIN: I thought I was becoming clearer, but I’m clearly not going to
become clearer.

354. MR BIRCHALL: I know it’s out of order, but could I clarify this with a few pictures?

355. THE CHAIR: Right, I’m going to let HS2 finish.

356. MR BIRCHALL: Right, sorry.

357. THE CHAIR: Then I’ve got something to say, then I’m going to come to you, Mr Birchall, if that’s okay. I think it’ll be to your benefit.

358. MR WIGGIN: And so does HS2, from the smile on Jacqueline’s face.

359. MS LEAN (DfT): Obviously quite a large amount of information was canvassed, so to a degree I’m in the Committee’s hands as to what, if anything, you’d like to hear from me on. As regards the borehole issue, I know this was raised when Mr Murray was in previously, and I understand that there should be an interim report on the work that’s been done that we should be able to make available to your Committee next week, to assist on that point. I think, sir, unless there are points you particularly wish me to address –

360. THE CHAIR: In the community engagement strategy on page 12, under leadership, it says, ‘We’, i.e. HS2, ‘will be transparent in our decision making’. I say to HS2, you haven’t been in this case. It has been very difficult for us to follow, it’s not transparent and I don’t think it’s been particularly fair on Mr Birchall. We will deliberate in private and come forward with our findings, but HS2 has not covered itself in glory on this one, before today, or today. Mr Birchall?

361. MR BIRCHALL: Thank you. Can I call back a couple of slides that might clarify the situation? So I would like A230(16). So, in the middle, this one down here at the bottom, safeguarded zone 30 November 2015. So the blue is the tunnel, the grey is the safeguarded area, my house here is Tortola. The problem, for HS2, is the road down here, this one here, there, that’s a private road that we own, we maintain it. Now, I own half that road, okay? So I’ve got half in the safeguarded zone. If that’s taken out, I can’t get to my house. I can’t get out. I know I’ve been married to my wife for 55 years, but I have to get out now and again. And it’s her birthday tomorrow, so I’ve got
to get back as well.

362. THE CHAIR: Hopefully she’s not watching.

363. MR WIGGIN: She’s not computer orientated whatsoever. So we’ve seen that one, memorise that one. Can I go to A237(17). So by magic now, so the bottom one – I’ll come to that in a minute. So the top one now, the safeguarded zone has been modified. So the hatched bit actually matches what was there before, so that’s the extended homeowner protection zone. So still the road at the bottom of our drive is still in that.

364. You can see how this has been extended at the bottom of the blue, the top one, they’ve very kindly gone round to one of our retired eye surgeons, so they’ve taken the safeguarded zone and they’ve taken the soundproof wall up to his boundary, which I thought was really nice of them.

365. What I want to point out on this one, where you see the purple arrow at the bottom, that one, that’s a house below there, it’s called Craggan, and they were in the safeguarded zone, only that bit, the little triangle is in the safeguarded zone, where the two boundaries overlap. They went out on express purchase. So the 25% rule doesn’t apply. Can I go to A230(18).

366. This is where I live, so this is the bottom of Birch Tree Lane. I live at the top, it’s steep all the way up and then if you come down to the bottom one, this is my drive. From the top of Birch Tree Lane, I’m very pleased to say the snow has now gone. So the very bottom of my drive is taken in, in the safeguarded zone. And not only that, there’s the bank on the right hand side and a wall, they’ll be taking that out as well and there’s no way of supporting the rest of my drive. I can’t get up.

367. THE CHAIR: Thank you Mr Birchall. I think we now understand what’s going on, I think we have enough information, so I’m now going to call order and we’re going to meet in private.

368. MR BIRCHALL: Thank you.

369. THE CHAIR: Thank you very much. Have a safe journey back.