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

Monday 2 July 2018 (Evening)

In Committee Room 5

PRESENT:

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

IN ATTENDANCE:

Justine Thornton, QC, Counsel, Department for Transport

WITNESSES:

Ingestre Park Golf Club
Frederick Smith

IN PUBLIC SESSION
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363. THE CHAIR: Order, order. Welcome back. Mr Jones, we’re in your hands.

364. MR JONES: Well firstly, Mr Chairman, can I apologise for cutting across you at one point out of pure frustration? So I apologise for that, and can I also thank you for giving us the opportunity to look at these figures and for our experts to talk you through them? So, that’s where I stand. That’s me done, to be fair. What you were going to ask in terms of figures is outside my expertise, but well within Bob’s.

365. THE CHAIR: No, everything was quite proper. No apology needed. I think we’ve now got the figures that you’ve provided on paper, we can put up on the screen. Did you want to comment on them? Do you want Mr Hunt to comment on them?

366. MR JONES: Mr Hunt will comment on them. With all due respect, Mr Chairman, he’s got the expertise. I haven’t.

367. THE CHAIR: Can you talk us through the numbers, Mr Hunt?

**Ingestre Park Golf Club**

**Evidence of Mr Hunt**

368. MR HUNT: Mr Chairman, I’d like, just to start, to explain that it’s impossible to create a set of absolutely meaningful figures and really realistic figures until a survey has been done, until a routing plan has done for the site. We have grave concerns that with the configuration of the site, we do not believe it’s possible to get golf holes to go through that site without going into the woodland. Golf holes are a certain specified length and in order to get backwards and forwards to the clubhouse, the routing of the golf holes has to – or requires certain lengths of land to be available. At the moment, it looks to me to be impossible. I’ve only had one day to look at it. I can’t guarantee it to you, but it looks to be an impossibility. So, we start off on that point, that we are very worried that we will have to go into the woodland, and in consequence, that’s why we haven’t challenged the figures that the HS2 expert has put in with regard to woodland clearance or the cost of reinstating the woodland, getting the roots out and so forth, as far as those costs are concerned.
369. We are concerned, obviously, as you’ll see from those sorts of numbers, that what you’ve got in those – in the reconfiguration set of numbers, what you’ve got if you adjust the HS2 figures, you’re at £6.5 million. If you look at what we think those figures should be –

370. THE CHAIR: I don’t actually understand what those three columns represent. Could you just talk us through what the three columns are?

371. MR HUNT: Okay. In terms of reconfiguration, we looked very quickly, and the numbers were prepared by Gareth, my colleague, so, I’m happy to talk to them, but they’re his numbers, so if I’ve got things wrong, please, Gareth, correct me. But the principle behind it is that the first set of – the first column is the numbers that we put together in for the reconfiguration of the golf course on the remaining part of the land that the golf course would be left with plus the three areas of land that we think might be available.

372. THE CHAIR: Okay.

373. MR HUNT: The second set of figures were the HS2 figures that challenged our figures.

374. THE CHAIR: Same land, different analysis.

375. MR HUNT: Same land, different analysis.

376. THE CHAIR: Right.

377. MR HUNT: HS2 adjusted is our view of what the costs would be if – in terms of us looking at HS2’s numbers of saying what we believe HS2 would really cost. So, for instance, the land costs £1.2 million is based on 60 acres of land. If 130 acres is available, according to Mr Smith, then it’s 130 acres, same price per acre of land, so the land cost would be £2.6 million. And so we’ve been through every line item that’s there to be able to compare what we believe our figures were, what HS2’s were and what we believe the real figures of HS2, so it’s a question of comparing our figures with the – which is Ingestre Park and with the HS2 adjusted figures. And if you do that, you get to a bottom line number in comparative terms of £6.5 million plays £6.1 million –

379. MR HUNT: – for the configured – for a reconfigured scheme.

380. MRS MURRAY: I’m just looking at this and I’m – the HS2 adjusted is the figures that you’ve adjusted?

381. MR HUNT: That we have taken HS2 – for instance, HS2 tell us that 130 acres is now available, so we’ve taken the price per acre from the HS2 column and we’ve adjusted it for 130 acres.

382. MRS MURRAY: Could you explain to me site clearance. You estimate it as being £145,000.

383. MR HUNT: Yes.

384. MRS MURRAY: HS2 say it’s £120,000.

385. MR HUNT: Yes.

386. MRS MURRAY: You’ve adjusted the HS2 figure to £500,000. Why’s that?

387. MR HUNT: Yes. On the basis –

388. MRS MURRAY: Why is it so much more than your own figure?

389. MR HUNT: On the basis that HS2’s expert, Alan Walker, arrived on site and said that was his view about what it should cost. So that set of HS2 adjusted figures is a combination of Alan Walker, HS2’s expert, challenges to HS2’s figures and our challenges to HS2’s figures.

390. MRS MURRAY: Okay.

391. THE CHAIR: Any further questions, Sheryll, before I come to Bill?

392. MRS MURRAY: Yes. I mean, the legal fees. They are basically a fixed sort of – more or less a fixable rate. They couldn’t be variable. So we’ve got £12,000 that Ingestre have estimated, £24,000 for HS2 and then the HS2 adjusted figure is £52,000. What’s that adjustment based on? Is it your adjustment? Is it HS2’s adjustment after their site visit? Because I can’t really see how a site visit could affect legal fees. But we seem to be well in advance of four times what you’ve estimated, Mr Hunt.
393. MR HUNT: Yes. When we’ve got twice the amount of land that we’re requiring, we are assuming that the lawyers will charge us more money.

394. MRS MURRAY: But could you justify why it’s four times the estimate that you at Ingestre originally estimated?

395. MR HUNT: Because we started with 60 acres of land and we’re now told the site is 130 acres of land.

396. MRS MURRAY: That’s only double. And HS2 have put in £24,000, which is double. But you’ve then got £52,000 in the adjusted figure.

397. MR HUNT: Yes. If you look at the 12 plays 24, that’s based on 60 acres of land. The £52,000 is based on 130 acres of land acquisition.

398. MRS MURRAY: Stamp duty. Now stamp duty basically is another fixed amount that we can’t question because it’s there. You’ve got £36,000. HS2 have £49,500. In the adjusted figure, it’s £119,500.

399. MR HUNT: Again, it’s the difference between 60 acres of land, stamp duty and the cost of that land and the stamp duty you have to pay on the increased cost of land.

400. MRS MURRAY: Okay.

401. MR HUNT: So as the site gets bigger, those costs, legal fees and stamp duty, go up.

402. MRS MURRAY: Okay. I think the trend goes all the way down –

403. MR WIGGIN: Can I ask about the new course costs?

404. MR HUNT: Yes.

405. MR WIGGIN: Because, again, you’ve adjusted the HS2 figures, albeit that there isn’t an increase in land. So you’ve gone from 60 acres to 130 acres on sheet 1, but on sheet 2, we start at 130 acres for everything, don’t we, which is why the land costs are the same?

406. MR HUNT: For everything. Yes, for 160 acres, for everything.

407. MR WIGGIN: Yes. So, realistically, they should all look much more similar,
shouldn’t they?

408. MR HUNT: They certainly should all look much more similar and I hope they do.

409. MR WIGGIN: So, £8.5 million is what you want for a new golf course and you think you should also be paid £2.1 million for the old one.

410. MR HUNT: Yes, that’s right. Less the value of the existing after we’ve vacated. We believe that’s a question of £10,000 an acre, which is half of what we understand the current land values are being discussed that are even a third of the cost of the current land values plus a value for the existing building.

411. MR WIGGIN: But if you were given 6 million quid, you’d stay in your existing golf course and make the best of the land that would come your way. Have I misunderstood?

412. MR HUNT: We could, if we could create a design that enabled the golf course to work and if we had any members left.

413. MR WIGGIN: And how do you square the circle that you need to be told now that you’re going to get this because you’ve got to prepare the new course, but of course, you won’t know if you’ve got any members left by the time all the work is finished?

414. MR HUNT: We believe and certainly from past experience where we’ve had golf clubs do work like rebuilding the greens at The Belfry, we believe that if we can offer members certainty now over what will happen –

415. MR WIGGIN: They tend to stay.

416. MR HUNT: – we can retain the members. If we don’t offer them certainty, an increasing proportion of them year-on-year will walk.


418. THE CHAIR: Sandy.

419. MR MARTIN: Yes. Mr Hunt, in your original assessment of the reconfiguration you put in £3 million for a new clubhouse.

420. MR HUNT: Yes.
421. MR MARTIN: When HS2 pointed out that actually you didn’t need to have a new clubhouse for the reconfiguration, you’ve accepted that that £3 million does not need to be spent on a new clubhouse. However, with the new course costs, you put in £3 million for a new clubhouse and then you’ve adjusted the HS2 figure down from £3 million to £2 million for a new clubhouse, so why do you think that on a new course, a new clubhouse would only cost £2 million, whereas on your original assessment of the course that you’ve got at the moment, it would have cost £3 million?

422. MR HUNT: This was a specific instruction from the club on the basis that they were prepared to not have the luxurious large clubhouse that they had at the moment, and in terms of looking at the future of golf, they wanted to have the smallest, most sensible operating clubhouse that would enable them to manage and run their business properly, but without the overheads of a very large building. So they took the view that they’d chop £1 million off the budget and deal only with a small clubhouse for the future as a piece of business protection for the future.

423. MR MARTIN: Thank you.

424. THE CHAIR: Bill.

425. MR WIGGIN: As I understand it, HS2’s plan is to go to this EME body and get a decision that says that you can’t have this. In which case, they will be paying out – am I right in thinking that they’ll be paying out about £3.3 million instead of the £5.5 million that you were hoping? Or – just to make sure I’ve –

426. MR HUNT: I’m not sure I’m competent to answer that –

427. MR WIGGIN: It doesn’t matter; you’re all we’ve got.

428. MR HUNT: – but what I am sure that I’m competent to answer over that process of valuation and compensation – what I am competent to say is that if you’ve got a situation where you have spent an awful lot of money on building a golf course that has no members, it’s a complete waste of public money. If I could ask someone from the club, Gareth, who is much more expert than I to answer that question for me –

429. THE CHAIR: Mr Jones, we can’t have kind of rolling witnesses, so you are –
430. MR WIGGIN: Can I suggest something? I’d really just like to ask HS2 the same question and give Justine a chance to answer it, if that’s all right.

431. THE CHAIR: Have we finished with Mr Hunt?

432. MR WIGGIN: On this question, yeah.

433. THE CHAIR: Well no, have we finished with him at all, totally?

434. MR WIGGIN: I have. Yes.

435. MRS MURRAY: I’ve just got one more, and basically, it’s on contingencies and it would be nice to know from both parties what these contingencies are because there does seem to be a difference between the golf club at £250,000. HS2 had £644,000. But then the adjusted figure, presumably in consultation with HS2, because that’s what the reconfiguration figures were, is £250,000. I’d like to hear from them both why there’s such a massive difference.

436. MR HUNT: If I can explain on behalf of the golf club, we took the view that as with 99% of golf course contracts that I’ve ever been involved with, we will take a contingency of 10% of the contract value of the work which has to be done because that’s variable. But we would not apply a contingency to fees and we would not apply a contingency to the cost of the land because those are fixed. So if you take the construction costs, the actual building works and you want a contingency applied to it, you’ll find that those 10% – that 10% applies specifically to the things which we can’t fix.

437. MRS MURRAY: Thank you very much. Chairman, I don’t know –

438. THE CHAIR: I’m not going to come on contingency to HS2, but I’d be quite good in coming back to Mr Jones, recalling another witness. I think that is the opportunity for the petitioner to have put their case. That period of time has now ended. Given I’ve gone backwards and recalled a witness, I’m going to give HS2 an opportunity to respond. There’s going to be an opportunity for members to – asking questions of HS2 and then we are going to call the next petitioner.

439. MS THORNTON QC (DfT): Thank you, sir.
Response by Ms Thornton

441. MS THORNTON QC (DfT): Sir, our position is as follows. We have not had sight of these figures before this evening. They were not presented to us at the meeting earlier today. We say that given the sums of public money at stake here, it’s essential that there’s rigorous scrutiny of these figures and we simply haven’t had the opportunity to properly scrutinise them. We wish to make clear that we do not by any means accept the figures – the HS2 adjusted figures that have been presented to you and it is simply misleading to say, as the figures do, that certain figures have been ‘agreed with AW’, the HS2 costs estimate. That is strongly refuted. Three preliminary points to show you why we’re deeply sceptical of these figures. On any analysis, there must be a material difference in the sums of public money required between an option that requires £3 million to be spent on a clubhouse and an option that doesn’t. And similarly, an option that requires 80 new holes and an option that requires 11 new holes. There must be a material difference in figures and we would like the opportunity to present our views on those figures.

442. A third preliminary point is there’s obviously been a misunderstanding by the petitioners. If we go to the preceding page on this it says the cost of land, the top one, has got up from £1.2 million to £2.6 million because of the reference to 130 acres. We hope we made clear in our presentation – I think we did – we don’t anticipate that the 130 acres will be required. That’s the pool of land that is being put in – will be put into the additional provision to ensure it can be made to work one way or another, that the full 130 acres wouldn’t be required. So, sir, we do request the opportunity to scrutinise the figures and submit a response to them in writing, if not at a hearing, if the Committee is not minded to accept our proposal of early neutral evaluation.

443. MR WIGGIN: Do you accept the HS2 figures rather than the adjusted figures?

444. MS THORNTON QC (DfT): Yes, we stand by our figures, sir.

445. MR WIGGIN: So the middle columns are correct?

446. MS THORNTON QC (DfT): Yes, they are a reflection – if I could put up P9 because it also goes to the question –
447. MR WIGGIN: No, that’s fine. That’s all I needed to know. That’s fine. We’ve got them.

448. MS THORNTON QC (DfT): There was a question, Mr Wiggin, you put forward about the 3.4 figure. Could I put up P922 (5)? I may have misunderstood your question, but it’s important the Committee understands our position. There are essentially and there will be essentially three options floating around at any early neutral evaluation. The cost of the new course, which we – you’ve discussed, the cost of reconfiguring, or the sideways move, or the tribunal will also consider the cost of extinguishment, which after re-saling the land will cost the taxpayer £1.25 million to £1.75 million. And the tribunal will come to a view on exercising its discretion on the basis of those figures once it’s evaluated the correctness or otherwise of those figures.

449. MR WIGGIN: So, could you just – may I? Can you tell us why we should accept a tribunal at all given that that’s what we’re trying to do here today?

450. MS THORNTON QC (DfT): Because, sir – for reasons like we haven’t had these figures until this evening.

451. MR WIGGIN: But you’ve done that to every petitioner we’ve come across so far, so why should you be any different?

452. MS THORNTON QC (DfT): I agree, sir, but the purpose of the specialist tribunal is there is a mix in here of compensation law, the principle of equivalent reinstatement. That’s a fundamental legal issue between –

453. MR WIGGIN: Yes, but that’s super for barristers, but it’s nothing to do with golfers.

454. MS THORNTON QC (DfT): But it does. Sir, if the principle of – if the tribunal says to us that the principle – the legal – correct, legal, applicable principle is equivalent reinstatement, then much flows from this.

455. MR WIGGIN: Shouldn’t you have done that before they got to here?

456. MS THORNTON QC (DfT): Well, sir, we are proposing a speedy resolution. We understand that the golf course needs to move fast. We do understand that. We’re not letting them take their chances in the Lands Tribunal, which would go into a long period.
We are trying here, but we think this is going to be a two-day hearing, it’s going to require specialist evaluation evidence, it’s going to require legal analysis. We’ve only just become aware of this possibility of the sideways move. There has been criticism of why we spent so long and only just come up with this sideways move. It’s because it’s only recently become apparent to us that there may be landowners nearby who are – who might be willing to help us make this work.

457. MR WIGGIN: Okay.

458. MS THORNTON QC (DfT): So, for that variety of reasons, sir –

459. MR WIGGIN: So don’t you think it’s not fair on the golf club that they’re expected to take a £3 million bet on something that you simply hadn’t done your homework on?

460. MS THORNTON QC (DfT): Sir, we’re asking them to take a bet. We are saying that we –

461. MR WIGGIN: Yes, I think you are.

462. MS THORNTON QC (DfT): We are saying that we will abide by the outcome of this specialist tribunal and with the timescale we propose – if I wasn’t coming here to you with a timetable that worked to ensure that this club could have a new golf course one way or another in time before this construction starts on this railway, I would be doing a disservice to the petitioners and I would be – HS2 would be treating them unfairly. But we’re not saying that. We’ve thought about this very carefully. We think because of the sums of public money at stake, £6 million, we simply want to ensure this decision is made by specialist tribunal.

463. MR WIGGIN: Is it six or three?

464. MS THORNTON QC (DfT): We say there are £6 million difference between our proposal and their proposal. Now that’s disputed, but we need a proper forum to sort that out because we’ve only just been presented with these figures this evening.

465. MR WIGGIN: So can I just check that?

466. MS THORNTON QC (DfT): Yes.
467. MR WIGGIN: Because on your undisputed figures for the reconfiguration, you would end up paying the golf course somewhere in the region of £3.5 million. That’s the bottom figure.

468. MS THORNTON QC (DfT): Yes, if it moves sideways.

469. MR WIGGIN: So that’s what happens if you win your ENE. If on the other hand you lose, you could be paying somewhere in the region of £9.751, in your opinion.

470. MS THORNTON QC (DfT): Yes.

471. MR WIGGIN: So you were right: it is a £6 million gamble you’re expecting them to take.

472. MS THORNTON QC (DfT): Expecting them to take what, sir?

473. MR WIGGIN: Well, that’s what you’re asking the ENE people to decide.

474. MS THORNTON QC (DfT): Yes.

475. MR WIGGIN: Yes. So that’s not a great deal for them, is it? Where was the middle ground? Where’s the settlement? Where’s the common sense? There’s huge differences.

476. MS THORNTON QC (DfT): Well, sir, that’s why we say it’s important there’s rigorous scrutiny.


478. THE CHAIR: Sandy and then Sheryll. Sandy first.

479. MR MARTIN: So, I mean, just to set my mind at rest, Ms Thornton, the £3.4 million is what you believe the reconfiguration will cost.

480. MS THORNTON QC (DfT): Yes.

481. MR MARTIN: And the £5.6 million is what the golf course thinks that the reconfiguration will cost.

482. MS THORNTON QC (DfT): Yes.
MR MARTIN: If the tribunal or indeed if this Committee were to instruct you to go ahead with the reconfiguration and it ended up by costing £5.6 million, then HS2 would meet that £5.6 million.

MS THORNTON QC (DfT): Excuse me, sir, I’m just taking instructions. Sir, I think it goes back to the earlier point about it’s a recommendation of this Committee that the Secretary of State then considers in light of our understanding of the figures.

THE CHAIR: Sandy.

MS THORNTON QC (DfT): Sorry, sir, I don’t mean to sound as if I’m trying to be duplicitous. I’m just trying to make sure that I give you –

THE CHAIR: It doesn’t sound duplicitous. It’s very – it’s clear

MR MARTIN: My point being that it depends on what we’re trying to achieve here. If we’re trying to achieve a transfer of monies, then we will be looking at the monies, but if we’re trying to achieve a working golf course that continues as a working golf course, then clearly, if you believe that this is the most effective way to maintain a working golf course and it ends up by costing more than you had anticipated, you would then need to continue to put in the money until you achieved a working golf course in order to achieve the object that you say can best be achieved by this means.

MS THORNTON QC (DfT): Well, sir, I think where we are agreed, the parties, is that these cost estimates are at very preliminary stages and part of wanting this to be put at a two-day hearing before a specialist tribunal is if those figures start to look unreliable, there is the third option of extinguishment. Now that’s not our preferred choice. We would like to leave the golf course with a sideways move golf course. But the purpose of the tribunal is to look at the three – the sums of money required for those three different options and form a view on them. And so if something unexpected occurred, that would have to be taken account of. And I know that sounds like lawyer speak, but in essence, our preferred choice is to move this club sideways and to do what it takes to move this club sideways, but this is public money at stake and I have to respond accordingly.

THE CHAIR: Sheryll.

MRS MURRAY: Yes. You said you were only presented with these figures that the
golf club have presented this evening. Why did HS2 only present the golf club with their proposal to move the golf club sideways on Wednesday of last week? You must have known that you had an option because you already admitted that it was land that you had previously identified as acquiring. Why did it take you until last Wednesday? Because actually, in fairness to the golf club, they received that last Wednesday and they’ve come up with this. I would have thought HS2 could have been far more professional and responsible by communicating this information to them weeks ago.

492. MS THORNTON QC (DfT): Ms Murray, we ourselves didn’t have the understanding or realise that there was a happy coincidence of surrounding landowners who have – may be interested in talking to us.

493. MRS MURRAY: So again, it’s a last-minute fudge by HS2 because the petition was coming before this Committee.

494. MS THORNTON QC (DfT): I don’t know whether people are handing it – I appreciate it may look like that, but it –

495. MRS MURRAY: It certainly does look like that.

496. MS THORNTON QC (DfT): I have been personally involved in trying to construct this solution for the last several weeks and it’s – when you’re in a large organisation, it’s piecing together different pieces of information and trying to come up with a solution and I can genuinely say this is something that we’ve realised there may be an opportunity to make this sideways move work.

497. MRS MURRAY: So how many meetings have you had with the golf club since you’ve been looking at trying to find a solution? Sorry, you said, ‘I’ve been trying to find a solution.’

498. MS THORNTON QC (DfT): Well, yes, yes. No, I understand.

499. MRS MURRAY: How many meetings have you had with the gold club?

500. MS THORNTON QC (DfT): Two meetings with the golf club and we took their figures. The slide I produced is based on their figures, which we were working with until this evening. So, if I could put up P922 (6) and P922 (7). But the Ingestre figures were the
figures we’d previously received from the club and those were the figures we were working with until this evening, which is the first time we’ve seen the HS2 adjusted figures. But Mrs Murray, I don’t want to get into a personal criticism of the club at all. That is not the role of HS2 or the promoter. But given this point has been raised, there was reference to an email that we sent in 2016 during the course of the golf club’s presentation in which it said that we’d given the impression we favoured equivalent reinstatement. We’ve gone back to that email in the break and checked and that’s misleading to present that –

501. MRS MURRAY: Can we see the email, please?

502. MS THORNTON QC (DfT): Yes, yes. Can we – we can forward it – we made it clear in 2016 – I’m just seeking to put this on the record because we had wanted to show this email to you.

503. THE CHAIR: Well let’s see it before you put it on the record. Let’s pause, get it up and then talk to it as we would to – normally. I’m more than happy if there’s a 30-second pause.

504. MS THORNTON QC (DfT): So, this is an email just to – this is dated – could we go – scroll up to the – this is only just sent, but this is the –

505. MRS MURRAY: It’s dated at 7 p.m. this evening.

506. MS THORNTON QC (DfT): Yes, this is the forwarded version. But this is the email of 2016, and if we scroll down, right the way down, there’s a bullet point – a first little star. Can you see – two stars. It says – this was the point you were taken to in the email of 2016: ‘It’s recommended moving forward that someone representing HS2 is at meetings with the local authority planners in any discussions regarding the golf course application alongside the planning consultant to be appointed by the golf club. HS2’s involvement in the planning issues will also send out the message to the local authority planners that HS2 fully endorses the relocation of the facility to the new site.’ That was the impression we understood had been given to the Committee, that HS2 in 2016 had supported this principle of equivalent reinstatement.

507. MRS MURRAY: That’s what it says.

508. MS THORNTON QC (DfT): But the bullet point at little star above makes clear our
position: ‘Due diligence will need to be carried out by HS2 on the club to assess whether they’re entitled to equivalent reinstatement Rule 5 compensation as opposed to standard Rule 2 as to whether the total relocation of the club to another site is the optimum mitigation as opposed to the replenishment of lost land at their current site or the reduction of the club to nine holes or even the extinguishment of the club. HS2 will have to consider the alternative options and demonstrate compliance with the Compensation Code in fairness to the public purse.’ So, that has been our position throughout this process. More recently, the sideways move has come to our attention and we are currently advised by our golf club specialists that it may be possible to make the sideways move work.

509. MRS MURRAY: Who’s Charlie?

510. MS THORNTON QC (DfT): Charlotte Bowen, senior community and stakeholder engagement advisor.

511. THE CHAIR: Let’s just have a pause.

512. MS THORNTON QC (DfT): So, can I just read out – so the Committee has this for the record, can I read out the following statement I’ve just been given? ‘The opportunity to’ –

513. THE CHAIR: Sorry, I don’t know what you’re reading at all.

514. MS THORNTON QC (DfT): Oh, yes, it’s just a – it’s a note. I just want to make clear the Committee has on record how we’ve arrived recently at this sideways move, unless you –

515. THE CHAIR: Oh, right. No, no. I just got confused by the term ‘statement’. So this isn’t a statement we’ve previously –

516. MS THORNTON QC (DfT): Yes, sorry. Yes.

517. THE CHAIR: You’d like to make a statement of clarification. Please go ahead.

518. MS THORNTON QC (DfT): Yes, sorry. This is a note I’ve just been passed up. ‘The opportunity to purchase the larger landholdings arose from discussions with petitioners scheduled in Committee over the last two to three weeks, i.e. landholders who
might be interested in selling a larger part of their land than is required for the scheme.’ So that explains why what appears to be an unsatisfactory position is in fact a recently-arrived-at position.

519. THE CHAIR: Martin.

520. MR WHITFIELD: A couple of things. Firstly, you – HS2 agree that they'll abide by the ENE decision.

521. MS THORNTON QC (DfT): Yes.

522. MR WHITFIELD: Are you going to expect the same from the golf club?

523. MS THORNTON QC (DfT): We would hope so. But that’s not in our gift.

524. MR WHITFIELD: No. The golf club have raised in their evidence that Whittington Heath Golf Club is a case of equivalent reinstatement and that is one of the golf courses that you’ve pointed out that you’re reconfiguring.

525. MS THORNTON QC (DfT): Yes.

526. MR WHITFIELD: So which is it? Is it an equivalent reinstatement or not?

527. MS THORNTON QC (DfT): We are doing the same with Whittington Heath that we’re doing – we’re proposing here, which is a sideways move.

528. MR WHITFIELD: So you’re suggesting that that wasn’t decided as an equivalent reinstatement.

529. MS THORNTON QC (DfT): This is page – because I don’t want to mislead you.

530. MR WHITFIELD: Well it’s on your page 922 (14), but it’s on the petitioner’s evidence A244 (12). I’m just evidentially trying to find out which is correct.

531. MS THORNTON QC (DfT): What we said at P – there is the existing 18-hole golf course is being reconfigured onto adjoining land, i.e. the sideways move, and then there’s the extra level of detail.

532. MR WHITFIELD: And was that achieved under equivalent reinstatement that was
acceptable to the golf course?

533. MS THORNTON QC (DfT): Okay. It’s part of a wider agreement with the golf course because we’re incorporating our mitigation into the redesigned golf course.

534. MR WHITFIELD: We’re going to have a tautology argument here.

535. MS THORNTON QC (DfT): Sorry. We didn’t – perhaps to put it – sorry, sir. To put it simply, we didn’t go to early neutral evaluation or challenge a principle –

536. MR WHITFIELD: No, but I think the question is whether or not you accepted that equivalent reinstatement was going to be the basis for the calculation.

537. MS THORNTON QC (DfT): We didn’t accept the principle, but we are paying their costs to move sideways.

538. THE CHAIR: Okay. I’ve come back twice on the petition which, Mr Jones, you won’t appreciate, but it’s quite an extraordinary thing to do.

539. MR JONES: What’s extraordinary?

540. THE CHAIR: What I’ve done. So I’ve spent half an hour going back on things we should have done earlier. I think it’s to the benefit of the Committee. We’re better informed now. I don’t think we’re perfectly informed, but we can go away and consider in private the way forward, so – now to consider the next petitioner, so this hearing has ended.

541. MR JONES: Okay.

542. THE CHAIR: Thank you.

Sitting suspended

On resuming –

Frederick Smith

543. THE CHAIR: It’s in our court at the moment. We will come back to you. I’m not saying that will be tomorrow, but we will try to come back to you in some way, shape or form. Have we got another – the next petitioner or do we want to call a short recess?
MR SMITH: Can I sit down?

THE CHAIR: Yes, absolutely, Mr Smith.

MR SMITH: Thank you.

THE CHAIR: Take a second to settle yourself.

MR SMITH: Right. Stuart, are you ready with the slides?

THE CHAIR: I mean, just before you start and whilst you’re getting settled in, you would have heard me remind you – I know you’ve been before us before, but to be very clear what you’d like, why and anything that’s acceptable if your primary question not possible and we – I will be tolerant if you want to mention some of the issues around the in-principle decision we’ve already taken not to tunnel, but I won’t be tolerant if that goes on too long and goes over territory we’ve already covered.

Submissions by Mr Smith

MR SMITH: Thank you, Chairman. Ladies and gentlemen. As you know, my name’s Frederick Smith. Just a little introduction. Stuart, if you can put up slide A243 (2). Have I got a mouse? Thank you. Right. In actual fact, it might be more helpful if we could refer instead of this slide to slide P909. Can we do that? Yes. Because this is – I think P909 is a more up-to-date map that’s been sent across recently. My property is the green one, which is situated here.

MR WHITFIELD: Sorry, Mr Smith, we looked at P886. I think was that your property?

MRS MURRAY: Yes –

MR WHITFIELD: Yes. Is that –

MR WIGGIN: That’s yours.

MR WHITFIELD: Is that your property, Mr Smith, that’s on this – it’s the same map, it’s just –

MR SMITH: That’s right. Yes.
557. MR WHITFIELD: Yes.

558. MR SMITH: Thank you. Thank you very much, Mr Whitfield. Could we – it would be helpful if we could split the screen, but we can’t. So, I’m going to refer, Chairman, if I may, to the special report first of all because I am aware obviously of the special report and I don’t want to waste your time or bore you or repeat. But I’m also conscious of the fact that I’d like to look at the special report, so could we bring up the A243 (1) slide, please? That’s right.

559. So obviously, when I put my petition together in February, I wasn’t – this special report hadn’t been published, so I will be trying to keep things short and sweet as I can and navigate you through my adjusted position because I now have to adjust things in the light of the special report. But I note the fact that it is an in-principle decision. The words being in-principle are some ground for me to perhaps help you sort of review this decision that you’ve come to. Because I note on the next point – and obviously I’m not going to repeat what I’ve put in your special report because you probably well – you know about that, but I’d just like to refer –

560. THE CHAIR: We wrote it.

561. MR SMITH: Sorry, chairman?

562. THE CHAIR: We wrote it.

563. MR SMITH: Well, you wrote it – yes, exactly.

564. THE CHAIR: Our memory’s not that bad.

565. MR SMITH: But you also say, ‘If any repetition made by petitioners from who the Committee has not heard indicate any further relevant information’, so hopefully, in the course of this – the session, now, I’m going to come up with some relevant information for you. If we could just move now to – I know – unfortunately, I didn’t get the second part of your petition, but – of your special report, but you go on to say in note 24 that you were unconvinced by the methodology used by the HS2 and the optimism bias. So, you also say here that, ‘HS2 has been unable to identify the earthworks costs.’ So I’m going to be coming back to this point later on in my petition, if I may.
566. THE CHAIR: So far you’ve spent about two or three minutes telling me what we wrote –

567. MR SMITH: What you already know, yes.

568. THE CHAIR: – and I’ve allocated five minutes of leniency. There’s no new information whatsoever, so I would suggest you get stuck into it, otherwise you’ll be disorderly and I’ll move you on.

569. MR SMITH: Right. Okay. Thank you. Thank you. All right. Well if we could move to – well obviously I’ve put a lot of evidence together for you and it’s quite voluminous, but in my petition, points 1 to 6 refer to blight and issues of that nature, which I don’t propose to go into at this point. So I’d like, if we could, go to slide A242 (8), please. And when I put my petition together in February, I’m saying here in point 7 it says that in section 2.57 – I’m sorry, sir, I’m going to have to just look at my notes because it helps me lead onto the argument I’m trying to make to you.

570. THE CHAIR: Pause for 20 seconds and then come back to us, but just as – by way of guidance, really effective petitioners say what they want.

571. MR SMITH: Yes. Yes, well obviously want I want –

572. THE CHAIR: That would be something to –

573. MR SMITH: Yes. Sorry, sir. Is to you change your decision and change your mind about the single tunnel. That is simple. Now, understandably, at this point in time, based on the information you’ve been given, you’ve made an in-principle decision, so – but if you can allow me time to expand –

574. THE CHAIR: Sorry, you’ve had five minutes. You’ve not introduced any new information whatsoever.

575. MR SMITH: Okay. Right.

576. THE CHAIR: So let’s move on to the kind of – what do you want. You’ve said what you’d like. We understand why. Let’s move on to part 3, acceptable solutions should your primary request not be possible, i.e. what can we do for you if the tunnelling doesn’t
happen?

577. MR SMITH: Well, in terms of time, sir, I know five minutes is probably a long time, but obviously I’ve been here for a few hours, but I – in terms of new evidence, I would like to look at a slide I’ve got which refers to a letter that I received from HS2. Now, I think I did mention to Ms Murray this is a process that I’m unfamiliar with and it is difficult for me to navigate this very, very quickly for you with what I’ve got in front of me. But – and I have to go back to what I put in my petition because when I wrote it in February, that was the question on the paper: what objections I had to the bill. So, obviously I wasn’t aware when I was writing it in February of what your special report was going to contain.

578. So, if I can go straight away to show you that I do have some new evidence and I think it will be relevant to you. I would like to refer to – if I can find it – if you just bear with me, sir. Could we put up slide A242 (36), please? I don’t want to try and take you through the story I had with regard to my experiences with working with Richard Johnson, because up until 23 April this year, I’d never heard of Mr Smart or Mr Miller. As far as I was concerned, the main character, the main engineer in charge of the project from the spring of 2016 until he disappeared in September 2017 was a gentleman by the name of Richard Johnson. Now, when I started to engage with Mr Johnson in the spring of 2016, I was unaware that there was an option to have a single tunnel. Later on during that year, we’d been talking about bore holes. There is email correspondence which shows you how frustrated I became with regards to getting information on bore holes. Now obviously, I know a little bit more about the significance of bore holes. I personally think that might be a red herring on the whole matter.

579. But you must understand, I’m not an expert, I’m not a tunnel engineer, I don’t know what you need to know in terms of tunnelling. I don’t know what models that Mr Smart has used, what the significance of them are, but I would like to refer to them later on in my presentation to you because there are conflicting models out there. There are experts out there, one of which you’ve heard already, that was the witness for Staffordshire County Council, David Hindle, and I think HS2 will agree he’s a man that is respected in his industry. He’s a tunnelling engineer, he has an enormous amount of qualifications behind him and he has sent me an email in the last few days with a number of very, very valid – salient points that I should be making to you to –
580. THE CHAIR: Well make them now. You’ve not said anything so far that’s been orderly in any way.

581. MR SMITH: Okay. Well, can I make this point here?

582. THE CHAIR: Sorry, just a sec’. If in the next two minutes you don’t present any more new information or tell us what you want in mitigation, I’m going to turn immediately to HS2, listen to HS2 and then the Committee will meet in private, but I will give you two more minutes and extend that if you’re starting to give new information.

583. MR SMITH: Just before I turn to Mr Hindle’s comments, it says here in this letter that I wrote to HS2. This is by the engineer Michael Long. It says, ‘You are correct when boring a tunnel, there is a great deal of cost that is associated in the setup and there are economies of scale to look at here. There is also the environmental impact to compare as well as the potential and the disruption of building a viaduct over the West Coast mainland.’ This is what HS2 are saying. This is what they’re telling me in 2016. I’m ignorant, but what I will ask you, sir, is how does this line up with their figure for indirect costs?

584. Now, it’s going to take me a few minutes to look back to find out where their report is, because in the March 2018 report, they are saying refer to indirect costs and they – sorry, sir. They’re effectively saying that the indirect costs of a single tunnel are much higher than the indirect costs of the proposed scheme. Now I would like to question that and I think the experts that I’ve spoken to in the last few days who are very well-respected, and that includes Michael Bing, who is subject to, I believe, an infrastructure – and I’ve forgotten the term. It’s referred to in a letter by the Rt. Hon. Christopher Grayling. But he is engaging with HS2. HS2 have recognised him. He has a rail method of measurement that is used. It is a model that is accepted worldwide. HS2, I understand, accepted it and I think they are actually – they helped him building it. But – sorry.

585. MR WIGGIN: Point of order. Point of order, please. Is the information from our inquiry available to public yet? Could he have watched it on television? Could he be aware of what was said?

586. THE CHAIR: Yes.
587. MR WIGGIN: Did you check the record to see if we’d considered all this, Mr Smith?

588. MR SMITH: I’m sorry, sir, I didn’t. I don’t do this for a day job and there is a limited amount of time I can devote to this process.

589. MR WIGGIN: Okay. Thank you.

590. THE CHAIR: Just as a point of that, we have considered all of these issues in significant depth. Sheryll, at this stage, do you have a question?

591. MRS MURRAY: It’s just Mr Smith is referring to evidence, but we haven’t got any evidence in front of us.

592. THE CHAIR: I agree. I’m afraid, Mr Smith, you’re not bringing new evidence before us. This is evidence we’ve already considered. HS2, do you have anything to say in addition? I struggle to see how you could possibly have anything additional to say.

593. MS THORNTON QC (DfT): Well I don’t, sir, but I’m in your hands if you would like to hear from Mr Smart on the matter.

594. THE CHAIR: I certainly don’t want to go back on old territory. Sorry, Mr Smith, but we’ve listened with respect to you, but the issues that you’ve raised we’ve considered in a lot of detail over several weeks, we’ve reported on and we’ve made an in-principle decision, so I think that concludes this petition.

595. MR SMITH: Can I just –

596. THE CHAIR: No, Mr Smith. I’m afraid the meeting is now closed. The petition has ended. You’ve not brought forward anything that’s new. Order, order.