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

Wednesday 11 July 2018 (Afternoon)

In Committee Room 5

PRESENT:

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

IN ATTENDANCE:

Timothy Mould QC, Lead Counsel, Department for Transport
Malcolm Gale, Petitioner Representative (CH Froggatt & Sons)

WITNESSES:

Sian Froggatt, Ian Welby and Martin Langdon (CH Froggatt & Sons)

IN PUBLIC SESSION
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At 2.10 p.m.

336. THE CHAIR: Mr Gale? Feel free to pour your water; sorry; I didn’t mean to wrong-foot you. As you’re pouring your water, I say to all petitioners, even ones that have come before us before, if you can tell us what you want up front, and if you can’t have that, what you want, or what you would want to mitigate any solution. I’ve been less coherent than I am normally.

CH Froggatt & Sons

337. MR GALE: Thank you, Mr Chairman. Well, first of all, may I just thank you for the understanding in adjusting the times as when this petition was heard. This is obviously on behalf of the Froggatts and Quinton’s Orchard Farm, and Mrs Froggatt would just like to make a statement at the beginning, and then we’ll go through with the points as succinctly as possible. Sian, can I ask you to go up please. Can I put up A315, please? Thank you. Just for interest, that’s the two farm holdings which are adjacent to each other. Quinton’s Orchard is on the southern side and Longacre is on the northern side, and obviously, you’ll know where the line runs, just south of Woodhouse Farm and north of Quinton’s Orchard.

Submissions by Mrs Froggatt

338. MRS FROGGATT: I would like to thank the Select Committee for hearing me today. My name is Sian Froggatt and I’m a joint partner with my husband David in our farming business. Next March, it will have been in our family for 100 years. The business is run with our son, Mark, who lives at Longacre Farm. He will be the fourth generation.

339. David can’t speak today because the stress has been too much. He was diagnosed with a heart condition which has been stable until the recent frustration with dealing with HS2. He has been admitted to A&E twice in the last six weeks and his condition is now more complex. He is currently at high risk of a heart attack.

340. We currently farm just over 700 acres which is split between Quinton’s Orchard Farm, Longacre Farm and land elsewhere. We ran a traditional livestock and arable farm until we diversified in 2003 by planting 65 acres of woodland into the National Forest scheme, and 150 acres of Miscanthus.
341. In 2004, we diversified into fish farming. Quinton’s Orchard was ideally suited for this because we already had historic carp ponds, an irrigation pool and an area of wetland. Our investment in digging pools, building a fish shed, installing solar panels and biomass boilers, buying equipment and stocking with fish has been a huge financial cost. We committed further to this business by appointing a fish farm manager in 2012. We have followed his business plan and we are just two to three years away from seeing the full benefit of this investment.

342. Without the income from the vegetables, Miscanthus and our fish farm, our business is severely at risk. The fish farm is totally reliant upon his living here and being able to supply top quality fish and there is no margin for error. It’s a substantial part of our business and sets us apart from other farms. We are anxious that it will not survive because of the many factors of this scheme.

343. HS2 will cut through our main access drive and land will be taken to construct a road which will be used by HS2 to access the rail track. We’ve been unable to obtain information regarding its use and are concerned about its impact on us. In January, we were devastated to learn that there would be a permanent haul road across our most valuable vegetable growing field. This road is to remove the adverse effects from the residents of Hill Ridware, yet HS2 informed us that it will have no adverse effect on us. How can this be possible when there will be an HGV movement across our land every two and a half minutes, and within 75 metres of our best pool?

344. Our engagement with HS2 has been appalling. We have requested meetings with engineers to answer our many questions. Instead, we’ve been provided with people that have been unable, or unwilling to answer the questions. They have even actually refused to give us the information and told us we would have no redress if the information supplied by them isn’t correct.

345. We now believe Quinton’s Orchard will be in the middle of a major construction site for many years. We will have massive soil bunds along the majority of our bottom drive, just 120 metres from the nearest pool and within close proximity of the house. The rail track is elevated approximately eight metres and, despite being classed in a major adverse zone, HS2 do not propose any mitigation. This will have a devastating effect, not only on our business, but on our family’s lives.
346. Our days are spent either in the fish shed or working alongside the pools. We feel that the code of construction practice reasonable measures, where HS2 repeatedly refer us, will be nowhere near sufficient to protect our business. We should be no better or worse off than if HS2 was not happening. We have found this impossible to achieve and are very fearful for our family’s future.

347. Our lives have been turned completely upside down by HS2. Our hard work, determination and the plans we made nearly 20 years ago are at risk. This has taken its toll on my own mental health, my husband’s condition, and that of our family and employee.

348. We fully endorse a request for an independent ombudsman to ensure fair treatment for all affected by HS2. Thank you for hearing my petition.

349. THE CHAIR: Thank you. Over to you, Mr Gale.

Submissions by Mr Gale

350. MR GALE: Thank you very much, thank you. Well, as you can see, from the information which has been provided to the Committee and also to HS2, the farming business is very forward thinking, because of the diversification. However, it’s threatened by the proposals. The main matters of concern are the effect on the fish business, vegetable production, and also the quiet enjoyment of the property. They are more specifically identified by a number of the works that are suggested, or are intended in respect of the farm. If you can bring up A319, please?

351. This isn’t the construction drawing, but it is the drawing of the completed work, just to give you an indication of exactly how everything sits there. So, Quinton’s Orchard, you will see on the southern side, thank you. The trace will be on the northern side, and then there is the AP which is off to the right, which I’ll talk to you about in a second.

352. The first point I would come to is the very heavy usage on the trace. We had asked HS2 with regards to numbers, unfortunately, that was no forthcoming, so we had to go through a freedom of information request to obtain that information. And unfortunately, that came back at being 89 HGVs a day and 900 ADTs, which I think
are the dump trucks.

353. Now that is obviously just lying to the north of the farm, so that in itself will have an impact with regards to potential for noise, dust, vibration and obviously –

354. THE CHAIR: Sorry to interrupt but could you just outline where the farm building is, or the residential farm building?

355. MR GALE: Sorry yes. The buildings that are down here are the hatchery buildings. The actual farm is underneath where the cursor is; you can’t actually see it because it’s written over with –

356. THE CHAIR: That’s where the petitioners live?

357. MR GALE: The petitioners live there, yes.

358. THE CHAIR: Okay, thank you.

359. MR GALE: So, as I say, we had to go through an FOI request to get the numbers, which obviously are considerable. So, we’ve got concerns of the considerable noise impact, it is shown as being in a major adverse area in accordance with the promoter’s determination and looking at the noise tables, which again, are within the promoter’s pack, the increase in noise during construction is an increase of up to 61.5% and up to 48% on operation.

360. Now, those are figures based upon readings from a study just south of Woodhouse Farm, as there hasn’t actually been any noise-based surveys as yet. They are intended, but we can only work with the information we have to date.

361. There are also concerns with regard to the volume of use on the trace. The fact that they will then, under their code of construction practice, be damping that down. So, first of all, where the water comes from and where it goes to, bearing in mind the proximity of the fish farm business, and just for ease of understanding, the areas, those three there, are fish ponds. These are also ponds, and down here, and then there is another one which is on there. Mr Langdon will just talk through the issues with the hydrology, so I’m not going to press on that. Obviously, we have concerns over pollution to the water courses from the works and the intended damping works that are
on there.

362. Under the code of construction practice, under 7.2.7, it confirms that the type of surface for haul routes should be designed to reduce dust issues. Now, in my opinion, and obviously in the opinion of the petitioners, this is especially important when you’re looking at specific receptors, and in this case, the fish from the fish farm, never mind the health of the occupiers of the property.

363. So we would also like an assurance that necessary works carried out in order to try and alleviate that and Mr Welby will talk about that in just a moment. We’re also looking at the possibility of a noise bund lying – it comes out of a cutting here, and then along that line is a suggestion of a bund, obviously with some kind of planting on top of it, which will give noise protection, and obviously some visual screening, and then when it goes on the top here, is looking at the possibility of some kind of sound boards. I don’t know the efficacy for the ability to do the job for the fish, but I think that’s something we need to look at further.

364. We had received an assurance with regards to damping down of dust which refers us back to the code of construction practice. My concern is that that is too generic, that whilst that might be acceptable in a general situation, because of the high issue with receptors there, I’d like to see something more specific, not only for the fish, but there’s also solar panels which are on the buildings, and here. So obviously, they will be affected.

365. What I’d like to do at this stage is just call Mr Ian Welby to explain the situation with regard to the potential effect on the fish and I can then go on to some further points on the actual matters that I think will affect it. Mr Welby, can I ask you to come up?

Evidence of Mr Welby

366. MR WELBY: Good afternoon.

367. THE CHAIR: Good afternoon.

368. MR WELBY: I’m the fish expert asked by Quinton’s Orchard to look at the possible consequences of this development on the fish farm.
369. THE CHAIR: Yes. Quick question already from Sheryll.

370. MRS MURRAY: Yes. Could you tell us what species of fish are involved?

371. MR WELBY: Carp, they’re predominantly carp.

372. MRS MURRAY: Okay. So it’s fresh water.

373. MR WELBY: Yes, they’re all fresh water fish. As opposed to that, I’d like to emphasise that this fish farm is set up for producing fish for restocking out to the wild, so into fisheries and other things. So they’re not produced for food. And that does change the way that they’re farmed and managed.

374. They have to be fit for purpose, so the farm reduces the stocking density a little bit so that they have access to natural food so that when they’re stocked out into the wild, they’re used to that sort of atmosphere, and they will not reduce predation completely, like many farms will completely eliminate all predation from the situation, so that the fish are used to the idea of predators, because when they go out, when they’re sold on, they will find themselves subject to predation.

375. So, that sort of husbandry is quite important to understand, and it does mean that husbandry is quite complex and you also should be aware they do produce now some very large fish, up to 20-30 lb. That’s a huge investment in time and effort, that’s a five or six year production cycle. A 20 lb carp on the open market would be worth about £700, £800. A 30 lb carp would be worth about £3,000, so they are significant creatures when they get to that size. There is a ready market for these species out there. It’s a popular pass time, carp fishing.

376. The two consequences that I mainly concentrated on because I thought they were the most important ones to this is, the first one is noise and vibration. Fish view the world differently, is my way of putting it. It’s quite difficult to see in water, particularly in a carp pond; it’s very turbid; there’s a lot of weed. Light isn’t the best form of getting an understanding of your surroundings, and if you look in a body of water, you’ll see that very quickly, the visibility is very short.

377. That makes sound very important. Carp, the species we’re talking about with Sian and David’s farm, is a hearing specialist. It has specific adaptations to help it hear
better, so it has several different forms of hearing within it, a body form, the lateral line system, and also an inner ear.

378. The soundscape, therefore, gives them their information about the world, to the extent of a fish swimming forward will detect something in front of it by the bow-wave it creates, creating particle displacement in the water.

379. My point is that if we increase the anthropogenic sound caused by anything around, that will have an effect. If I can have up A324, page 5 please. There’s quite a lot of work that has been done on this, particularly in America, and this chart is a review guide that was developed by two American authors looking at the effects. We’re not talking, obviously, the top three, we think, or we feel, certainly I feel, that masking and behavioural responses are the two significant issues here.

380. THE CHAIR: Sherryl.

381. MRS MURRAY: Could you just explain to me if fish are sensitive to sounds that we, as human beings, might not necessarily hear?

382. MR WELBY: Oh yes. It’s the way – sound moves in water very differently to the way sounds moves in air, five times faster. It’s a very different soundscape. If you put your head under in a swimming pool, you hear something of what they hear, but they can feel it as well.

383. So it’s the last two, the bottom two, the masking and the behavioural response that we’re particularly interested in. In some ways, masking is possibly the most important one. Masking is the idea that if there’s low background sound, they go so used to that concept of the sounds occurring and trucks passing by, whatever it happens to be, that they fail to hear things that they should be hearing, the predator coming up behind them, is essentially a good way of looking at that.

384. The behavioural changes, again it may be fairly limited in tanks, but about half way through it talks about effects of feeding, effects of growth. These are all important aspects of being a husbandry person to a fish that you can’t always see, you don’t really know what’s going on under the water; we haven’t got glasses that will see through that water. So, those are two very key points to make. It’s very difficult to set
a limit, so it is 10 extra decibels, is it a truck going over a bump that’s going to cause that problem, because these things are relatively unknown.

385. However, I will say that the promoter’s responses to the concerns do seem to be very limited. We’re not talking about huge decibel levels or whatever and the P1073(3), which is a particular one, is the only one that deals specifically with fish. The idea that you have to be in close proximity, 10 metres away from a truck passing to feel the vibration as a fish is frankly, ludicrous.

386. THE CHAIR: I think we get the point broadly. Mr Gale, can we get to the bit where you tell us what you want?

387. MR GALE: Can I ask if Mr Welby can just move through to the points where there are any other major issues you can see, particularly with...

388. MR GALE: So you can understand the basis behind it, Mr Chairman, if that’s okay.

389. MR WELBY: To give you an idea of how that is not really suitable is whale song travels 100 miles in water.

390. THE CHAIR: Yes, Mr Gale, I think we’ve had enough; let’s move on.

391. MR WELBY: Moving on to the other key issue that I have is the biosecurity of the ponds.

392. MR WIGGIN: Before you do, can I just ask a couple of questions on sound? First of all, you haven’t said whether you’re bothered by the traffic sound or the train sound.

393. MR WELBY: In the first instance, the traffic sound, after that it would be the train sound. I’m interested in sound and it’s very difficult to –

394. MR WIGGIN: But these are fish that have been bred at the farm?

395. MR WELBY: Yes.

396. MR WIGGIN: So they will have had this all their life?
397. MR WELBY: Yes, and that’s where we come to the masking. If they’ve had it all their lives, that’s almost worse because they are being sold out into the wild. We want them to be fit for purpose –

398. MR WIGGIN: And if you look 1069, you see they live pretty close to the West Coast Main Line already. And you’ve just quoted 100 miles sound travelling, so I think you might reconsider –

399. MR WELBY: It’s not 100 miles of water between –

400. MR WIGGIN: It’s not that far away from the West Coast Main Line which you can now see.

401. MRS MURRAY: Can I just add to that, the difference between high frequency sound and low frequency sound, does that affect them in any way?

402. MR WELBY: Low frequency sound is more important because of its ability to travel –

403. MRS MURRAY: Because I know it does cetaceans as well, doesn’t it?

404. MR WELBY: Yes, its ability to travel through water is improved, the lower the frequency. And it’s particle displacement, so vibrations are much more important as well. So moving onto biosecurity.

405. One thing you have to understand is fish farm is a licensed trade and as such, any, what’s it called, an agricultural production business has to be registered with Cefas through its operational executive, the Fish Health Inspectorate. As part of that registration, they must have a biosecurity measures plan in place. It’s of vital importance to a fish farm, particularly one that’s selling into the wild, that that biosecurity measures plan is tight.

406. The particular diseases that we’re worried about koi herpes virus and spring viraemia of carp, they’re very serious viral diseases of fish, and the consequences of getting into the wild are quite significant. So, Quinton Orchard has a detailed biosecurity measures plan already developed with Lee, their fish farm manager, and this development does represent an increased risk. Certainly the increased risk of
awareness of its presence and of access to the site. I’ve talked about how valuable these fish are, they are that valuable, I promise you they are £800 a minimum.

407. MRS MURRAY: Can we see exactly where the fish farm is? If you use the cursor on this map?

408. THE CHAIR: Yes.

409. MR WIGGIN: It’s just under the cursor; keep going down.

410. MR WELBY: Just there. So main pond, pond there, main pond there, and ponds through here. So the haul road will go past that pond particularly, and through these other ponds.

411. MRS MURRAY: Thank you.

412. MR WELBY: So that increased risk, it’s not an unreasonable argument to say that that’s a real cause for concern for the Froggatts, that might increase traffic onto the site potential for poaching. And also the water onto the site.

413. MR WHITFIELD: I understand the risk of theft and poaching. I don’t understand the increased risk of viral infection.

414. MRS MURRAY: I don’t either.

415. MR WELBY: If we have a risk of poaching, we have a poacher who will be going from site to site, doing his trade. His net, his equipment won’t be disinfected between the sites, those sorts of things.

416. MR WHITFIELD: Right, I see.

417. THE CHAIR: Sheryll.

418. MRS MURRAY: Can I just ask; obviously, if you’re feeding the wild stock, there must be very stringent checks on you because you don’t want to transfer disease from farmed fish into the wild stock.

419. MR WELBY: Yes, absolutely.
420. MRS MURRAY: So using that argument, if there were any disease found, then very clearly, it’s going to be identifiable, which it already is, because if you’re feeding the wild stock, there are regulations that you have to stick to. Why does the construction of a railway increase that?

421. MR WELBY: I’m sorry I don’t understand the question. We have a site that’s bio-secure, so it’s restricted access to it, people aren’t allowed on site, you wouldn’t be allowed to go on site, up to the fish farm ponds to avoid any chance of members of the public getting contamination. Equipment and that sort of thing is held on site. It’s isolating those ponds from the outside world.

422. MRS MURRAY: Why would that change?

423. MR GALE: Can I just say I’m not sure whether there’s a slight misunderstanding with wild stock and what is farmed there. They are farmed to be released into the wild.

424. MRS MURRAY: Absolutely.

425. MR GALE: But they are actually raised in that place, so they’re not brought in, they’re only brought in as fry.

426. MRS MURRAY: What I’m saying is, if you stock the wild stock with farmed fish, you already have to comply with a lot of regulations, because if you’re feeding into the wild stock, the last thing anybody wants, and with you talking about fresh water fish, or whether you’re talking about sea water fish, and I’m thinking salmon in particular, you don’t want to get any disease into the wild stock. So there must already very stringent regulations with regard to looking at the biodiversity and the protections at this farm.

427. MR GALE: Yes.

428. MRS MURRAY: What I can’t understand is why that would change because you said about poachers, but surely, you would find that in your stocks, and I’m sure that you might even have insurance to cover for you –

429. MR WELBY: No.
MRS MURRAY: – if that was the case.

MR GALE: If I can respond there, Ian, and cut in otherwise if you wish, you mentioned insurance. The clients have spoken to the NFU with regards to obtaining insurance during the construction of HS2 and they are basically saying that’s unavailable, because of their concerns in respect of the biosecurity risk. Now, whether that be from disease or whether it be from potential pollution from run off and things like that, so that is certainly the case.

432. I think the thing to understand is that the farm itself, before HS2 goes through, you can’t call it isolated, but it is private. No other vehicles go along the drives apart from either for the farm or for the fish farm, so the only access available on there is, from a vehicle point of view, is in respect of the farm, so therefore, their biosecurity is quite good.

MR WIGGIN: A327.

MR GALE: The concern is, thank you, the concern is that once you get a development going forward quite close to it, I think it’s 300 metres from the house and 200 and so odd metres from the hatchery, people will become aware of those ponds and the potential availability of those fish, and I’m afraid to say, if you have an increased number of people, there is also the increased chance of them coming in. So we’re struggling to…

THE CHAIR: I think Sandy’s got a question.

MR MARTIN: Yes. If we look at A319, there are four distinct areas, aren’t there? You’ve got the ponds immediately adjacent to the farm buildings there. Then you’ve got the larger ponds to the south there.

MR GALE: These ones here, yes.

MR MARTIN: Then you’ve got a series of very substantial manmade ponds there.

MR GALE: Correct, that’s it.

MR MARTIN: And then you’ve got the single large pond over there.
441. MR GALE: That one there, yes.

442. MR MARTIN: What proportion of the business requires the small ponds next to the buildings, because those clearly are going to be the ones that are most affected by HS2?

443. MR WELBY: It’s managed on a rotary basis, so you’ll use some ponds for small fish growing, so the obviously manmade ones will be the smaller fish because they’re drainable and various management issues. Then these ones tend to be used for growing the fish on for the middle period of their time, and then the much larger pond, the reservoir pond down here is used to grow the fish to those really big sizes, so you’ve got lots of room for them to move about in, lots of natural food and that sort of thing. So, it’s a production cycle, so all the ponds are important, but different life stages.

444. MR MARTIN: So for the continuation of the business, it would be perfectly possible to replace those small ponds which are nearest to the buildings, but retain the other ponds and just have that particular part of the operation replicated elsewhere on the farm?

445. MR WELBY: That might be considered a mitigation. These have the advantage of being close to the managers for easy stock checking, but yes, those sorts of mitigation –

446. MR MARTIN: But the others don’t have the advantage of being close to the managers for easy stock checking and the decision was taken to put the others in the places where they are, so presumably, that’s not a game changer, is it?

447. MR WELBY: No. I mean, that’s a possible mitigation.

448. MR GALE: Can I just point out that these ones here, and correct me if I’m wrong, Sian, these three here are actually very old pools. I think they were the ones that were original –

449. MR MARTIN: Those original ponds?

450. MR GALE: Yes, they were hundreds of years old.

451. MRS FROGGATT: Sorry, can I speak?
452. THE CHAIR: Do you just want to speak to Mr Gale privately, but you can speak from where you are.

453. MR GALE: Mrs Froggatt has just clarified it. So those three, as I said, are historical, very old ponds. The ones that are up here are actually used as part and parcel, as Ian has already said, in order to manage, measure, in order to decide which way they’re going to go. The issue that Mrs Froggatt is telling me, is that it is unlikely to find somewhere within the proximity to be able to dig it because in that area, there are some enormous lumps of sand stone. I know the gas line went through there and there’s big problems there. So I think that is another issue.

454. So, whilst it may be something to give consideration to, Mr Martin, I don’t know whether there is going to be the ability to actually find somewhere close enough to be manageable and still satisfy the requirements of the business. Is there anything else you wanted to say?

455. MR WELBY: I just wanted to clarify one point, so we have got a farm that has been disease free, particularly specific disease free since 2004, sells its fish to the wild. That consequence of becoming infected with one of these modifiable diseases is completely catastrophic.

456. They would be asked, as you rightly pointed out, they can’t then be sold out into the wild, and in fact, the Fish Health Inspectorate would almost certainly ask them to clear and disinfect the farm. So that’s take everything out, take all the water out, disinfect it, disinfect and line the ponds, all at their own cost. There are no businesses that would be able to put up with that. So, the consequences, as a normal risk assessment which a biosecurity plan is, the consequences of catching KHV or SVC are so dramatic, that’s why we’re so concerned about biosecurity. To give you an idea, on 6 July this year, in Bulkington, which is only about 32 miles away –

457. THE CHAIR: Sorry, we don’t need this example. Mr Gale?

458. MR GALE: Thank you very much.

459. MR WHITFIELD: Sorry just before you leave, there’s something I just would like clarified, that actually the infection risk is not the construction traffic, or the
railway, or the construction, although it will have an effect with dust and you’ve talked about sound, but the infection risk is really the loss of privacy, opening this site up to the infection coming in on someone else’s, potentially…? Right.

460. MR WELBY: Yes. But there is also an additional one, which I forgot to mention, but the damping of the dust with bowser water, where that water comes from is important, that’s the sort level you go up to with the biosecurity measures plan. We would have to redraft it once the construction started, to take into account identified risk.


462. MR GALE: Thank you, Ian. I think probably the best thing is, if I can move on with Martin Langdon, just to give his information, then I can give everything in the round, if that’s okay. If you can just go up, Martin. Can you bring up plan – well, I’ll leave that entirely up to you.

Evidence by Mr Langdon

463. MR LANGDON: Chairman, members, thank you again for putting up with my tales of woe on the hydrology side of things. This slide is fine because it gives a good indication of where the issues are, and one of the things we were looking at was, in particular, the balancing pond and the placing of where it is, which is a nice big one which, as it shows here on the south side, or the left hand side of the railway.

464. One of the issues I was interested in was its purpose for actually helping to de-silt any of the run off from things like the roads, the rail and all the rest of it. Had it actually been placed on the upstream side of the dropped culvert, which is just here, so somewhere perhaps in this area, which is still within a topographic bowl, so it would still be able to collect water from, not only the cutting of the railway, but also from Pipe Lane, the upper part of Pipe Lane near Woodhouse Farm, and it would collect all the silts before it goes into the culvert, rather than afterwards, which is normally a sustainable drainage principle, which is one of the first ones that you come across. I was surprised to actually find the pond actually on the downstream side. So the first thing I would have said was why was it not on the north side.
465. THE CHAIR: So you want it moved to the north?

466. MR LANGDON: Say again?

467. THE CHAIR: You want it moved to the north?

468. MR LANGDON: Yes please.

469. THE CHAIR: Right. Let’s move on to the next point. We’re going far too slowly. You simply want to move it to the north; that’s the request; HS2 can respond to that. You’ve got time, in summary, to address any concerns you may have remaining.

470. MR GALE: That’s fine, as long as HS2 understand the reasoning behind it, which is obviously what Mr Langdon was explaining.

471. THE CHAIR: Yes, it seems clear. More points or shall we move to HS2?

472. MR GALE: No, not yet, there’s more points, Sir.

473. THE CHAIR: Right, let’s get on with it then, Mr Gale.

474. MR LANGDON: The balancing pond again, for the biohazard side of things, if there is any spillage, we would like it lined. I understand there may be an assurance that could come through for that, which I would appreciate.

475. The one thing that I say is very, very important with all of this, especially with the colloids, the silts that end up from the dust going into the ponds and affecting the fish, especially the breathing, is we need those to be monitored and not just a spot monitoring every now and again, there are daily records that we have already on dissolved oxygen, nitrates, ammonia, temperature –

476. THE CHAIR: Even if that moves to the north?

477. MR LANGDON: Pardon?

478. THE CHAIR: You need that even if it moves to the north?

479. MR GALE: Yes.
480. MR LANGDON: Yes. This relates to all of the ponds, basically, so the fish ponds and the balancing ponds. We would like to have those monitored, especially during construction, to demonstrate that any of the movements of the water or any of the pollutants that are in the water, may, or may not be derived from the railway.

481. MRS MURRAY: Does that happen now?

482. MR LANGDON: No.

483. MRS MURRAY: How often is it monitored now?

484. MR LANGDON: The only thing that’s monitored now, as I said, is for temperature, dissolved oxygen, ammonia and nitrates. They are not tested for water level, or for colloid content in the water column, and it’s the water level which is important because that would have reduced the dissolved oxygen level when the fish are in a much smaller quantify of water, and also the colloids damage the gills and tend to cause a problem with the breathing.

485. THE CHAIR: Okay, any other questions? Can we move to HS2, Mr Gale?

486. MR GALE: I’ve got quite a few points, if that’s all right, Mr Duddridge.

487. THE CHAIR: Well you’ve taken 45 minutes which is quite a lot longer than any of our recent petitioners.

488. MR GALE: I will try to get through those points.

489. THE CHAIR: I’m going to give you five more minutes, so prioritise accordingly.

**Final submissions by Mr Gale**

490. MR GALE: Okay. So, obviously, as far as the situation is concerned in respect of the various points, moving the pond to the north. We also have an issue in respect of the access road. Where that pond is, there is also then a substation which is located here. If the pond moved to the north, and the substation were able to be moved to the north, that would remove the requirement for this road through here, which would then improve, to our mind, the security in respect of the holding, and the issues that we’ve
raised with regard to the biosecurity.

491. So, if they can be relocated, that would certainly help. The access: we have actually had a draft assurance this morning with regards to the overbridge, because of concerns in respect to its construction and ability to carry traffic. At the moment, that is only in draft form, I haven’t had chance to read it, I was literally just given it as I walked in.

492. There’s no point in talking about that because that’s all covered. There is an issue that would appear to be the case in that the main access which currently runs straight down here, and the cutting, when the works for the cutting take place, that appears to be 12 months in advance of the date when the bridge is coming in.

493. The issue is that the drive at the bottom end is not sufficient with regards to the farming enterprises because the other farm is off to the left hand side. You can’t turn back up, that is the main drive, so we need to ensure that it is maintained, left open and sufficiently unimpeded for the farm traffic to continue to use it without any problems.

494. The drives on these two points; I’ll try and just summarise all these. These on here, we don’t understand what they are needed for. If they were able to be removed, that would again improve the security position because nobody, apart from the owners and Miss Daw who farms here, would actually have to come across this bridge, so that would be very useful, so we don’t understand what the necessity is of that. If it is just for schedule works, then as long as we knew when that was one, when it was and it was only very occasionally.

495. And I’ve said, you’ve obviously seen the fact about security, and the fact that there will be no insurance available. Can I just go onto A318 please?

496. MR MARTIN: Before you do, I’m looking at P10693 and I beg your pardon for looking at one of HS2’s maps but I think it’s clearer.

497. MR GALE: That’s okay.

498. MR MARTIN: If you look at the farm itself, you can see that footpath 24, footpath 19 and footpath 38 all go through the actual farmyard and directly pass the ponds. Presumably people regularly walk those footpaths?
MR GALE: There is use of those footpaths but that is for local people, and only in a very low volume.

MR MARTIN: Okay. But nonetheless, if anybody wanted to walk along those footpaths, they could walk along them, or has measures been taken to prevent people from walking along them.

MR GALE: They don’t actually go through the yard, Mr Martin. Okay. One of the footpaths is actually in the incorrect place, it shows it going over a wall which was actually built in 1730, so there are footpaths in the area but they are only very lightly used.

MR MARTIN: But I mean, well, if I may Chair, I mean notwithstanding the fact that quite a lot of footpaths are probably a mistake, and several of them are shown in the wrong place in many maps, and we won’t go back to Hodgkinson’s map of 1652, thanks very much, but footpath 38 is part of the plans by HS2. Clearly, they have a statutory duty wherever there’s a footpath crossing the line to provide an alternative route, so whatever else may be done, they are going to have to find some route for footpath 38 and at the moment, it’s not very different from where it goes at the moment. So, I mean, what would your advice be on that?

MR GALE: With regards to footpath 38, we’d obviously try and get it changed, but at the moment, that’s not something that HS2 can do, as I understand it.

MR MARTIN: No it isn’t, but I mean, the point I’m making is you’re talking about HS2 changing the way in which they design the scheme in order to make absolutely sure that nobody goes anywhere near Quinton’s Orchard Farm.

MR GALE: At the moment usage is actually managed, in as much as we know about it, and it is actually taken as part and parcel of the biodiversity. And it’s also fenced. So obviously, it’s a case of not wanting to increase the issue.

MR MARTIN: Okay, fine.

THE CHAIR: Sheryll?

MRS MURRAY: Can I ask of there are any specific conditions on – because
you must have a licence presumably? Are there any specific conditions on your licence at the moment, and how often is your fish farm inspected?

509. MR GALE: Every six months. An inspection every six months.

510. MRS MURRAY: And are there any specific conditions imposed because of the footpath?

511. MR GALE: The footpaths?

512. MRS MURRAY: And public access?

513. MR GALE: There’s no specifics to it, but the footpath 38 is the one, that’s actually fenced off. The one through the yard isn’t used, Mrs Froggatt tells me, so there’s no specifics to that, but obviously…

514. MRS MURRAY: That’s fine. Has there been any indication that there would be any extra licence conditions if you applied for renewal because of HS2?

515. MR GALE: Right, that point hasn’t been looked into as yet, because obviously we want to know where we’re actually going to be with regards to the design. If it moved, then it would obviously be a different situation as to what may or may not be required.

516. MRS MURRAY: So you’ve not asked the Environment Agency what conditions you would need to put on here?

517. MR GALE: It’s actually Cefas that does the inspection, not the EA.

518. MRS MURRAY: Okay.

519. MR GALE: The haul road – A318, sorry, that was what I was going to go to. A318. I’ll just mention this, because it looks like it may well be covered by an assurance but we’re just waiting for this. A318.6, that is a haul road which, it looks like it may well be moved. We hope it will be because, obviously, it’s currently shown as being within 75 metres of that main pool.

520. THE CHAIR: He’s nodding assent, move on.
521. MR GALE: Thank you. Can I go on to A321 please? The reason for bringing this up is that the area shown in red there is actually on an FBT, a farm business tenancy. It was originally on a five-year agreement. There’s been an occupation since 2004. It now runs on year to year. It’s a very simple request that because it is on a year to year basis, it effectively falls outside of compensation provisions because of the fact it’s not a three-year term.

522. The people who own the land were quite happy for them to carry on farming it, but because of HS2, they haven’t actually given a longer period, and we’re just requesting an assurance that compensation, to either move the crop, because it’s a three-year establishment for Miscanthus, or for compensation for the losses suffered will be available, which I think is something that Mrs Antoinette Sandbach had also included in her petition. Just about there, sir.

523. THE CHAIR: As you’re doing that, I think Bill’s got another question.

524. MR WIGGIN: The compensation you want is for the land taken from this?

525. MR GALE: No, Mr Wiggin, it’s to do with the crop that is in there, because Miscanthus –

526. MR WIGGIN: No, you’re not going to grub up all the Miscanthus, just the bits where the railway line goes and where the new planting is, is that right?

527. MR GALE: Well, the possible issue would be, after the railway has gone through and the planting has gone in, that the client who owns that land may well decide that they no longer wish to have the farmers on there, whereas if HS2 hadn’t been in there, they were quite happy, and they’ve actually written to us to say they would have been happy for a long term agreement on it.

528. MR MARTIN: Well I think it might help Mr Wiggin as well. If we have P1067(2), you will see that there’s a material stockpile movement of electricity pylons and all sorts of other things going on, on that land as well.

529. MR GALE: Thank you, Mr Martin. That was just whispered in my ear as well. So the issue with Miscanthus, it takes three years to grow, to even start cropping, and then it is a very, very long time cropping, and is part and parcel of the overall situation
with regards to the farm business itself. The only other point I would just raise is with regard to otters, in that there is talk in respect of facilitate the ongoing maintenance of the otter population. Obviously otters and fish don’t mix, but there are no specific plans to enhance the water courses for otters. We would want an assurance that there will not be any works to encourage them to actually go towards the pools. Obviously, I know it’s very straightforward and simple, but it is –

530. THE CHAIR: That’s a clear request; let’s hear from HS2.

531. MR GALE: May I just one last point, Sir.

532. THE CHAIR: No. You’ve taken 56 minutes, in part; it was quite repetitive early on. I’ve got to stop you somewhere. Mr Mould?

**Response by Mr Mould**

533. MR MOULD QC (DfT): Thank you. Can we go to P1069(3), please. I’m going to focus on the fish farm. The request to move, to relocate the balancing pond to the eastern side of the railway; the Committee will recall that when Mr Daw, who is the owner and operator of Woodhouse Farm, was before you, high on the list of his requests was that there should be a substantial noise bunding in that area there, in order to provide noise mitigation, not only for his property, but also in relation to the housing development that is coming in at that point. Indeed, a noise bund in that location is being brought forward as part of an additional provision in order to achieve that, because our own assessment is that that is necessary in order to maintain acceptable living conditions for this properties, so I’m afraid that is not a location that is available for relocating the balancing pond.

534. However, it doesn’t follow that there is nothing that can be done. I can ask Mr Miller to explain it to you, but let me take a positive line on the fish farm, and see whether that does it for today’s purposes. That positive line is this. It is clearly the case that the fish farm is a sensitive business operation. And it is clearly the case that whether or not it turns out to be true, we don’t think that’s it’s likely to be the case, but leaving that aside, the petitioners, as the operator of that sensitive business operation, which has been a success hitherto, require some reassurance that the project, through its construction and operation will not put that business at risk. The last thing they
want is to put in a claim for the closure of that business, they want to be able to keep that business going.

535. It is therefore in the interests of both the petitioners, but also of HS2 as a project, to do all that they reasonably can, to coexist through construction and operation. Our assessment is that we can do so, but in order to give that reassurance to the petitioner, which is an important consideration, my proposal is that the project should look to develop, with the petitioner, an action plan, which provides for some monitoring and management arrangements for construction and operation of the railway, for potential noise and vibration effects, potential dust effects, for potential biosecurity effects, and for potential water contamination effects.

536. You’ve heard there’s already a proposal that that balancing pond should be lined, which has been received positively by the witness. This is not rocket science. We have examples on Phase One, different businesses, but it’s the same principle, where they were sensitive, we had a photographic studio in Camden, for example. We had a special school in Wendover where we –

537. THE CHAIR: We don’t want more examples. Thank you. Sheryll Murray.

538. MRS MURRAY: Mr Mould, can I just ask, if the Fish Health Inspectorate require any specific work to be carried out in order to continue to licence this fish farm, would HS2 look to work with them to make sure that that could happen?

539. MR MOULD QC (DfT): Yes, yes. Obviously, there might come a point where those works were so prohibitively expensive that they were disproportionate, you would expect me to say that, but the answer to your question, in principle, is yes.

540. THE CHAIR: Ask the question, it’s helpful. Reasonable endeavours.

541. MRS MURRAY: You would take reasonable endeavours, Mr Mould?

542. MR MOULD QC (DfT): Reasonable endeavours, indeed so. In a nutshell, that is my proposal and –

543. THE CHAIR: Can I just intervene on you? You’ve used the term ‘management plan’, all seems very sensible. In the past you’ve used the term ‘working party’; should
I read anything into the fact you haven’t used ‘working party’?

544. MR MOULD QC (DfT): There would be a need for HS2 with appropriately qualified technical people and the fish farm owners and their advisors to work collaboratively to develop an appropriate plan. So that would be the working party, but the output of their work would be an action plan that would include a recognition of the potential risks, a –

545. THE CHAIR: That’s fine, it’s both, not different.

546. MR MOULD QC (DfT): A lot of this is already included in some of the assurances. My thinking is that it’s a good idea to bring this together into a coordinated document because that can then sit on Mr and Mrs Froggatt’s farmhouse table and they know they’ve got the script, and hopefully they can show it to their insurers and say, ‘Does this make things a bit easier?’

547. THE CHAIR: Martin.

548. MR WHITFIELD: Could these discussions – and you know, Mr Mould, I’ve raised this before about HS2’s interaction with people. I mean, this must have stood out from day 1 as a special case with regard to being a fish farm and I just wonder, and I fear I know the answer: these discussions couldn’t have taken place earlier?

549. MR MOULD QC (DfT): Well, I’ve got a schedule here of the meetings which did and didn’t happen; I wasn’t going to go into that.

550. MR WHITFIELD: It can happen now.

551. MR MOULD QC (DfT): It can happen now, let’s get on with it, and if we can get moving on this if you would like us to report back before you finish your work in the new year we can do so. That would be my proposal. I’ve got a couple of other things to say to you about the other matters obviously.

552. THE CHAIR: I noticed a bit of wincing from Mr Gale. I think when you said ‘before the new year’, so before AP2 comes out, that’s the normal – is that what you’re suggesting?

553. MR MOULD QC (DfT): Yes, it would be. AP2 is due to be published in the
early new year I think, so we can certainly set that as an ambitious target to move things forward and to try and ideally get a plan in place or certainly to have got a long way down the road. Of course, because the critical time for this – leaving aside your scrutiny, the critical time for this is that something should be in place which is acceptable and workable before the work starts.

554. THE CHAIR: That seems sensible. Sandy?

555. MR MARTIN: Mr Mould, can you just reassure me that as there is going to be a bund to the north of the railway? And as there will be possibly some changes involved in meeting the requirements for Quinton’s Orchard Farm, if when it comes to AP2 the petitioners are not satisfied with where they’ve got to, will have the opportunity to re-petition in AP2?

556. MR MOULD QC (DfT): Well, the bund that I was talking about would be a bund which is designed to protect Woodhouse Farm, so I’m not sure –

557. MR MARTIN: You don’t think that would make –

558. MR MOULD QC (DfT): But I am able to tell you that work is going on to consider the case for putting in some form of noise bund on the western side for the benefit of Quinton’s Orchard. And as I said to you yesterday, at the moment we predict we’ve got quite a lot of surplus material that we need to deal with and obviously if some of that material can be used to provide some further noise mitigation to people who are living in isolated dwellings along the railway where ordinarily the case for noise fences is not made out then that’s obviously something that merits serious consideration.

559. I can’t give you a guarantee on that today, but I can tell you that that is something that is being considered, and we’ll obviously keep Mr Gale informed on progress with that.

560. MR MARTIN: That is helpful; however, I’m sort of putting myself in the position of the petitioners here. What is really helpful in a negotiation is to know at the end of it that if you’re not happy with the result you can have another go. Will they be able to have another go?

561. MR MOULD QC (DfT): Yes, they will, because the provision of a noise bund of
the kind that Mr Gale anticipated in his presentation to you would be within the Bill limits – it wouldn’t involve the need to promote an additional provision because it could be dealt with as part of the detailed design of the railway within the powers of the Bill. So it would be something that he could raise if he was dissatisfied in the second half, yes.

562. MR MARTIN: Yes.

563. MR MOULD QC (DfT): So he has that. As indeed would the point about my suggestion for coordinating all the variances assurances into a management plan, he could also – he has that protection in relation to that as well.

564. MR MARTIN: Fantastic.

565. MR MOULD QC (DfT): So that’s that. I need to deal with a couple of other things very quickly if I may just so you’ve got – the first was the haul road.

566. Mr Gale is quite right, the project is currently bringing forward a proposal to relocate the route of the haul road so that it moves further away from the petitioners’ undertaking, albeit it remains on their land. It is to be a temporary facility so it will be removed if that is what they want us to do once the construction activities that it serve are –

567. THE CHAIR: Thank you.

568. MR MOULD QC (DfT): Construction vehicles on the trace, Mr Thornely-Taylor has told you before, I’ll remind you, the direction of travel – forgive the pun – in relation to those in noise mitigation is that they are getting quieter because the design of those heavy vehicles, the tyres and so forth, means that best practical means, which is the standard, is enabling contractors, builders to lower the sound.

569. And the prediction for these petitioners in their farmhouse is that although there will be an increase in noise from time to time during construction – because they have the benefit at the moment of living in a very quiet environment – our prediction is that it’s not going to be anything like above the level of impact that is deemed to qualify for sound insulation. So that gives you the measure of that.
570. On the question of Miscanthus, otters, we won’t put in otter – yes. On the question of Miscanthus. If the petitioners are able to show when the time comes that they have been required to quit their tenancy or that they have been disturbed from pursuing what they would otherwise have pursued continuing with the business of growing their Miscanthus crop, and that disturbance results from HS2 and they have thereby suffered a loss, then in principle they will have the basis for a claim for compensation in relation to that disturbance.

571. They will have to show that they’ve taken reasonable efforts to find an alternative location to grow within their overall holdings, but you would expect them to have to do that anyway because the public purse is available for genuine losses rather than losses that could have been avoided with reasonable efforts made by the petitioners.

572. MR WIGGIN: Can I just stop you there? I mean, because a Miscanthus is a sort of corn that takes three years to reach the sort of 10-foot height where it’s harvested for biomass – because they're on a one-year contract, will they be disqualified? It seems to me and from Mr Martin’s helpful diagram that you’re going to grub up this crop anyway because you want to put a soil pile on it, so they will be entitled to compensation just for that alone if not continuation.

573. MR MOULD QC (DfT): Well, that certainly seems a likely outcome, but obviously we’ll have to see whether there are ways in which that can be mitigated before we get to that.

574. The short point on maintaining access: access will be maintained to the property throughout construction and operation, and there’s a slide P1072(8), I don’t need to show it, but that just gives you a timeline and indicates how that can be achieved.

575. THE CHAIR: Thank you.

576. MR MOULD QC (DfT): I think I’ve covered all the key points that were raised.

577. THE CHAIR: I think you have to the Committee’s satisfaction. Thank you very much. Meeting closed.