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

Tuesday 17 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
Abigail Walters, Petitioner Representative

WITNESSES:

Roger Geffen MBE, John Grimshaw CBE, Phil Jones (Cycling UK)
Peter Miller, Head of Environment and Planning, HS2 Ltd

IN PUBLIC SESSION
## INDEX

<table>
<thead>
<tr>
<th>Subject</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cycling UK</td>
<td>3</td>
</tr>
<tr>
<td>Submissions by Mr Geffen</td>
<td>3</td>
</tr>
<tr>
<td>Evidence of Mr Jones</td>
<td>12</td>
</tr>
<tr>
<td>Evidence of Mr Grimshaw</td>
<td>14</td>
</tr>
<tr>
<td>Response by Mr Mould</td>
<td>18</td>
</tr>
<tr>
<td>Evidence of Mr Miller</td>
<td>19</td>
</tr>
<tr>
<td><strong>Little Ingestre Care Ltd</strong></td>
<td>26</td>
</tr>
<tr>
<td>Submissions by Ms Walters</td>
<td>26</td>
</tr>
<tr>
<td>Response by Mr Mould</td>
<td>29</td>
</tr>
</tbody>
</table>
421. THE CHAIR: Welcome, Mr Geffen. I was rather hoping you would turn up in Lycra with a Brompton fold-up or something, but it is good to have you here. There are going to be quite a few votes in the Commons from 3.30, so we are going to try to hear each of the two petitioners within about half an hour, if that works, then sit in private briefly, because there could be up to 10 votes this afternoon, which would mean we’d be coming and going. I normally tell petitioners to try to say what they want, up front, why and, if they can’t have it, how we can help in mitigation. But I understand I think there’s been a bit of progress, so I’m hoping that you’ll be happy, to a degree. Mr Geffen.

**Cycling UK**

**Submissions by Mr Geffen**

422. MR GEFFEN: Thank you, Mr Chairman. Firstly, if I may introduce the organisation, then I will do exactly what you say: what we want, in summary. We are Cycling UK. We’re the national cycling charity. We were founded in 1878. We have 65,000 members. We promote cycling as a safe and normal activity, hence not wearing Lycra. We’re very much about cycling for the people who do not cycle. We would like cycling to be much more like it is in Netherlands, where older people, women, children all cycle, and just as a day-to-day activity, for the benefit of our streets, our communities, our air quality and the environment, and so on.

423. To outline our petition and get straight to the nub of it, broadly speaking, our position is fairly similar to one we raised on Phase One. We are covering two broad areas. There was a third which, for completeness sake, is one we are not pursuing, which was relevant in Phase One which is not relevant in Phase Two. I only realised after it had been drafted that this scheme stops short of Crewe and therefore does not include the issues of cycle path and cycle storage at stations. So, what remains then is the issues of what firstly is known as cycle proofing. This is a bit of cycle policy jargon. It basically means designing in cycling at the outset when doing any kind of works to highways. In this case temporary as well as permanent works – roads, bridges and tunnels – are obviously particularly important, but also rights of way. All of that comes
under the broad heading of ‘cycle proofing’ and the other issue, which I am going to take first, is to do with lorry safety where we are looking to ensure that we have safe lorries, safe lorry operators, safe lorry drivers and safe lorry routing.

424. I shall do the lorry safety bits first, partly because they are easier and shorter to explain; secondly because our two witnesses are here, Phil Jones and John Grimshaw, to talk about the cycle proofing issues, so if I deal with the lorry issues, their evidence will follow on more naturally from talking about cycle proofing second, and it has been said it is the more complex of the two issues. It is also the one where we have been discussing assurances, literally as of last night.

425. THE CHAIR: Can I just check, on lorry safety are you going to be discussing broad principles with illustrations or are there some specifics on specific sites or a combination of the two?

426. MR GEFFEN: Yes, we have requested specific assurances, which I will outline, around the accreditation of operators.

427. THE CHAIR: I am sorry, I was unclear. What I meant was specific sites, geographic areas?

428. MR GEFFEN: No, none of the lorry stuff is site specific.

429. THE CHAIR: Thank you.

430. MR GEFFEN: Okay, if I may start just by way of, ‘Why does this matter?’, I shall just briefly put some policy context around this: ‘Where is government cycle policy at on these issues?’

431. My first exhibit is the Government’s Cycle and Walking Investment Strategy. I shall start with the ministerial foreword which is A392(4). This is something that we and other cycling organisations campaigned for. It has as its central objective to make cycling and walking the natural choices for shorter journeys or the best part of a longer journey. I just wanted to quote the paragraph in the middle there: ‘For too long, some have seen cycling as a niche activity rather than as a normal activity for all’. That is the point about why I am not wearing Lycra. ‘If we can increase levels of walking and cycling, the benefits are substantial.’ It refers to cheaper travel and better health, greater
productivity, increased footfall, less congestion, better air quality, vibrant and attractive communities and places.

432. That is the policy context in which we are operating. It had specific targets and, if we go on slightly to page A392(9), it sets an objective at 1.14 to increase cycling activity where cycling is measured as estimated total stages, and at 1.15, to double cycling from 0.8 billion stages in 2013 to 1.6 billion and also, just going back above that to the previous paragraph, to reduce the rate of cyclists killed or seriously injured on England’s roads measured as a rate – that is important; the number of fatalities or serious injuries per billion miles cycled.

433. So, that is more and safer cycling, in a nutshell, and recognition of the policy benefits of doing all that. We are way behind many of our continental neighbours, not just the well-known cycling nations of the Netherlands and Denmark with percentages of cycling being 19% in Denmark and 27% in the Netherlands. Even in Germany, Belgium, Finland and Switzerland, it is 8-10%. In Britain it is about 2%. That is because we have historically been designing cycling out of our roads and basically we wish to see HS2 be a model of good practice incorporating cycle design and not further entrenching the problems.

434. So, that is the outline of what underlines all this. If I can now specifically come to lorries, that obviously goes to the point about safety. Lorries propose a disproportionate risk. They account for 3.6% of non-motorway vehicle mileage, yet they are involved in about 17.5% of cyclist fatalities and 14% of pedestrian fatalities, a disproportionate risk to non-motorised road users. Collisions involving them are much more likely to prove fatal rather than merely serious, and left-turning lorries are a particular hazard.

435. We raised this issue not just in the Phase One petition but in a petition we raised 12 years ago on the Crossrail Bill. That led Transport for London to adopt a lot of good practice, which is really the starting point for what has come to be known as the CLOCS standard, Construction Logistics and Community Safety. The CLOCS standard is exhibit two. Perhaps we could just go to the front of it. We do not need to look at it in any detail but that really enshrines good practice which has emerged from London since the Crossrail Bill, since these issues of how we avoid endangering and potentially killing cyclists when rail schemes are constructed, and TfL have really stuck to their
guns on making sure that these principles are applied, and the CLOC standard has come out of that work. It’s about making sure that lorry operators are properly accredited, that their lorries were fitted with – at that stage we were talking about mirrors, sensors and cameras – and it is a good practice in fleet management. We would like to see the CLOC standard applied on HS2 as well. I will come back to some of the caveats that HS2 have raised around that, but that is the first point.

436. Since some of this good practice was established, though, attention is focused more on the issue of designing of lorry cabs, not just the sensors, mirrors and cameras. That is a more recent development which has led to what is being called the development of a direct vision standard. This is because of Loughborough University. If I can go on to exhibit three, this shows a couple of images of what we mean by a direct vision lorry. It comes out of asking the question, ‘Why is it that lorries are so much more involved in killing cyclists or indeed pedestrians, than bus drivers?’ and the answer is, if we go to the second photograph, that a bus driver sits lower down and is surrounded by more window. A lorry driver tends to sit higher up. We put the lorry driver above the engine in order to maximise the amount that can be carried on a maximum length lorry, except that maximum length lorries are not an issue in these sort of construction vehicles. They don’t have a maximum length. Construction projects do not involve full length ‘artics’. There is no reason why lorry drivers cannot sit lower down and have the sort of window that allows them to get in and out of the cab and therefore to also be able to see a cyclist alongside them.

437. So, this is what is known as a direct vision lorry. Transport for London has now adopted what they are calling a road map towards direct vision lorries. They are consulting on a star rating system with intent to effectively ban zero-rated lorries, the ones with the lowest standards of direct vision, by October 2020 and progressively ratchet up the standards so that ultimately this kind of visibility for a lorry cab becomes the norm. Again, we would like HS2 to adopt that level of best practice, if not better, in order to avoid endangering cyclists as part of the construction works.

438. MR WHITFIELD: In your petition, you talked about built-up areas requiring five star vision direct lorries. I assume you require the same across the site of HS2 that we are looking at here today?
439. MR GEFFEN: Correct, yes.

440. MR WHITFIELD: And five star is the maximum that the City of London are going to. Do you have a bottom line under which you wouldn’t like to see HS2’s lorries below to be used on this construction?

441. MR GEFFEN: A bottom line? I will go straight to the point, the caveat that HS2 have raised is that these developments in direct vision cabs are relatively new and therefore they are concerned, understandably, that if they stipulate five star direct vision, contractors will find it difficult to source the vehicles at the outset of the project, but that is exactly why what we want is progressive ratcheting up of standards over the course of the contract because lorry standards will doubtless evolve over the time between now and the completion of the project. So, we want them to be no less than where Transport for London has got to, recognising that TfL is itself consulting on the timescales for adoption, and that discussion is designed to reflect the freight industry’s own concerns about how quickly it can get the sufficient standards on to the market.

442. So, we are saying that if they have that input into formulating the TfL standard, and HS2 are on the sounding board for that standard, HS2 should be able to adopt the same standard.

443. MR WHITFIELD: So, you are looking for ongoing adequate management?

444. MRS MURRAY: Mr Geffen, surely, though, if you restricted HS2 to contracting a specific set of contractors who have invested in new lorries, they might find that they couldn’t provide best value for the public purse because you would actually limit the companies that they could contract from. Given that they have to stick to a realistic budget as well, would it not be better to ask them to ensure that all of their contractors have safety awareness when they interacted with cyclists rather than specifying very modern, very new vehicles that many contractors probably find they are prevented from being able to invest in?

445. MR GEFFEN: At the outset, the point about difficulty of investing is recognised, but as to the standards, TfL are reflecting exactly that. That is what they are consulting on at the moment.
446. MRS MURRAY: It is a little different comparing TfL to a project that is looking to provide the best value for money for the public purse to deliver a project.

447. MR GEFFEN: It is very expensive, as well as obviously tragic on a human level, for a contractor to be involved in a fatality. There are reputational and financial costs.

448. THE CHAIR: I have been quite lenient in terms of going through detail. From now on in, only bring things forward in terms of HS2. I am conscious of the time but also you have some serious points to make. We are not going to change government policy. We can change what HS2 do. So, let us focus entirely on that. Feel free to say a couple of sentences more on lorry safety. Let’s start cycle proofing. I am conscious we have only 13 minutes of the 30 left.

449. MR GEFFEN: Yes, okay, fine. So, in a nutshell, we would like to see CLOC standard adopted. We would like to see the direct vision standard adopted in accordance with what TfL are doing. We would accept a certain amount of wriggle room. Our revised assurances do allow for, ‘Well, what if TfL say that CLOCs can’t be met in certain circumstances’.

450. THE CHAIR: Okay. Let’s deal with cycle proofing. Once you’ve heard from HS2 you will have one or two minutes if you want it, to come back on them.

451. MR GEFFEN: Okay. I will leave that.

452. THE CHAIR: So, on that basis, let’s move to cycle proofing.

453. MR GEFFEN: I will leave that horse trading.

454. THE CHAIR: Yes, that works better because we don’t know what they are going to say yet.

455. MR GEFFEN: I will move on then. So, cycle proofing. It has to be said it is a bit of an unfortunate piece of terminology. It is meant to be a bit like future proofing, i.e. designing cycling in, not like waterproofing, designing the cyclist out. It was adopted in 2013, if we go to exhibit six, when the Prime Minister then made a commitment to what was called a cycling revolution and that was their press release at the time. At that time they wanted to improve cycle trend and design standards. Specifically, they tasked
Highways England, Highways Agency as it then was, with consistently designing cycling into all works that were to do with any road associated with the motorway and trunk road network and it was asking, not instructing the local authorities to do likewise. That is explained in a supporting note going on to the next exhibit, where they talked about what is cycle proofing. This is the briefing on the Government’s ambition and I have highlighted a chapter on what is cycle proofing.

456. The Government set up the Cycle Proofing Working Group, which I sit on to represent Cycling UK. Phil Jones also sits on it. It was basically to advise on the kind of design standards, guidance, regulations, professional training needs and the processes to ensure that this principle of cycle proofing was consistently applied to set design standards for Highways England’s roads and advisory standards for the local roads. We have since as a working group been pushing the department to adopt new design standards.

457. THE CHAIR: I am sorry, I am going to stop you. Focus on HS2. Don’t tell us anything more about government policy.

458. MR GEFFEN: Okay. I will just finish that sentence.

459. THE CHAIR: No, move on.

460. MR GEFFEN: Okay. There will be new design standards coming out shortly that will apply to the rest of England’s road network, not just the motorways and trunk road network, and Phil Jones is working on those, as well as having worked on the Welsh standards and Highways England design standards.

461. So, how does this all relate to HS2? At the time of the Phase One Bill we sought assurances that we would have a discussion through the Cycle Proofing Working Group on how to apply the principles of cycle proofing to HS2. Unfortunately, that assurance admittedly loosely worded, has not really been respected in practice. That is why we want some rather tighter assurances this time around incorporating some very specific design standards and a process for dialogue through the Cycle Proofing Working Group to make sure that there is some accountability as to how it is applied.

462. THE CHAIR: Now we are getting on to cycle proofing, where we need to be, do
you have that somewhere explicitly, that is what you want, what you are asking us for?

463. MR GEFFEN: Exactly.

464. THE CHAIR: So, could you show us that?

465. MR GEFFEN: It was a revised assurance that had been sent. It was not in the exhibits bundle but I understand you have our revised assurances. I am not sure where they are because they weren’t in the exhibit bundle. I have it, if you want it. That is their assurances to us and our assurance. I will possibly unearth it from my bundle. It was basically to adopt some of the specific tables from the Welsh guidance or the Highways England guidance which described what kind of cycle provision is necessary on what kind of roads depending on speed and volume of the traffic. It is a fairly self-evident principle of cycle-friendly design that the greater the traffic volumes and speeds, the greater separation is needed between cyclists and motor vehicles, and there is a table.

466. THE CHAIR: I am sorry, I am very confused. Almost by definition, that which is in the assurances, you are getting already. What more do you want?

467. MR GEFFEN: I am sorry, this is our proposed assurances to HS2, not their proposed assurances to us.

468. THE CHAIR: Right. At the moment we have in front of us on the screen theirs to you.

469. MR GEFFEN: That is the one that was sent to us only last night. I am sorry, I don’t know where to unearth our proposals to them. I understand you have those.

470. MR MOULD QC (DfT): I don’t think it’s on the system. It wasn’t part of your exhibits.

471. MR GEFFEN: Okay. I will need to unearth those. The gist of it is there was a specific table from the Welsh or the Highways England standards, that is table 2.2.2 from the Highways England standard, which was actually, I note, in the promoter’s response bundle, who may be able to help find that, or I can find it. It is A403, page 11. You have it there. I think I have given you the reference anyway, A403, page 11. So,
that is a table that explains the kind of cycle provision, when is it okay to have cycle provision on the carriageway without physical separation, when you need cycle track and when you need quiet traffic.

472. MRS MURRAY: Mr Geffen, we visited the area where this development is happening. It would be virtually impossible on many of those roads to put a separate cycle track along the side of the road. I don’t understand the relevance of these figures that you are quoting and the actual roads and cycle tracks because there are some cycle tracks, that relate specifically to HS2. Perhaps you could tell us exactly what you want to do within the limits of the Bill?

473. MR GEFFEN: Within the limits of the Bill we are particularly concerned to make sure that bridges and tunnels are designed so that cycle provision is not designed out. If we continue to design rural single carriageways to a width of 7.3 metres, which is a standard width of 24 foot in old money, that creates conditions in which children and older people will not cycle.

474. MRS MURRAY: Just to come back to you, you are referring to the bridges and the underpasses within the limits of the Bill, so could you give us specific places that you have concerns about?

475. MR GEFFEN: I will be asking John Grimshaw to talk about specific locations.

476. THE CHAIR: Let’s get him up now and let’s hear a specific and then we’ll be coming to the conclusion of your evidence, so get your asks in early.

477. MR GEFFEN: I can get some specific locations, but I do just want to talk about design standards in general.

478. THE CHAIR: No, that is not the position of this Committee. We are not here to look at design standards in general. We are here to look specifically at your requests for HS2 so can we bring your witness forward immediately, please? Can you call whoever you want to call? Is it just one witness or two witnesses?

479. MR GEFFEN: I have two witnesses and one is specifically to talk about design standards because HS2 has adopted its own technical guidance and that is where we are concerned that design standards along the lines of what we expect the Whitehall
Government to adopt are not being incorporated in HS2’s own technical standards for roads. That is our concern about design standards.

480. THE CHAIR: Let’s hear straightaway and let’s do it quickly.

481. MR GEFFEN: Phil, can we bring you in to talk about design standards more generally and then John to talk about specific locations. Perhaps I may very quickly do some background.

482. THE CHAIR: No, just get stuck in there, no background.

483. MR GEFFEN: Okay, fine.

484. THE CHAIR: What do you want?

485. MR GEFFEN: Okay, Phil do you want to take us through some specific things around road widths and maximum and minimum standards?

Evidence of Mr Jones

486. MR JONES: So, what is wanted are two things. One is to change the standard so that there is a specific requirement in there to provide properly for cycling when new roads are constructed. That is consistent with the requirement to cycle proof, the commitment that has been made by the Government. The current standards that are written by HS2 are not adequate to do that and therefore we request that table 2.2.2 from Highways England design standard, which is now considered to be the reasonable practice for all new trunk roads and major roads that are built by Highways England, is adopted as the appropriate standard by HS2. The current standards that HS2 have produced, which were only shared with the Cycle Proofing Working Group very late in the day, contrary to the assurance that was given on Phase One, are not adequate.

487. THE CHAIR: That is very clear. Thank you for that.

488. MR JONES: Thank you.

489. MR GEFFEN: Could you also just talk about maximum and minimum standards and also desirable standards and perhaps reference either the Welsh or the Highways England standards?
490. MR JONES: Indeed. The suggestion is that flexibility has to be applied by HS2 on whether or not to apply the standards. The point is that the standards themselves have a flexibility built into them so although HS2 should commit to using the standard, there is still flexibility in how it applies. So, for example, there is a desired minimum width for the cycle track where space is available. When space is not available, it is possible that there is an absolute minimum width. All of that is defined in the document. For example, this table 2.2.11 sets out for a two-way cycle track with a certain flow a desired minimum width of 3 metres and an absolute minimum width of 2.5 and all of that is in the document.

491. THE CHAIR: Yes, that is very clear. I don’t think we need any more examples. We understand what you want. Brilliant.

492. MR JONES: What I would also say is that this is not just a matter of setting the standard; there is a requirement for a process. John, I am sure, will come on after me and talk about particular locations. The design is evolving all the time. What was committed to by HS2 in Phase One was to enter into a dialogue with the Cycle Proofing Working Group. The Cycle Proofing Working Group is an advisory body to the Department for Transport and our role is to advise Government on how best to provide infrastructure that enables future generations to cycle. There has been no meaningful interaction with the Cycle Proofing Working Group.

493. THE CHAIR: We have that point. We will ask HS2 to address it.

494. MR JONES: Yes.

495. THE CHAIR: Any other points before we go to the next witness?

496. MR GEFFEN: There is one specific one about a problem we have with the technical standard referring to 7.3 metre roads as a normal maximum standard. Phil, would you like to explain the problems?

497. MR JONES: It is possible either to ride on a narrow carriageway and make it difficult for a car to pass you so there is a narrow width that it is safe to cycle, or there is a wide road that is safe for cycling which would leave enough room for a motor vehicle to pass a cyclist in safety. The problem is that the standard 7.3 metre road that we have
been building for a long time in this country is exactly the wrong width. So, we now feel required to provide a sensible off-road provision. A 7.3 metre carriageway is entirely the wrong width and that number is one of the few numbers that is specified in the HS2 standard. So, the HS2 standard not only does not provide properly for cycling; it is actually requiring the design strategies to provide those that are exactly the wrong width.

498. THE CHAIR: Okay, let’s move to the next witness. Thank you very much for your succinctness.

499. MR GEFFEN: I was just going to point to a couple of photos, if I may, where Highways England has designed in space for a cycle provision to be added later. That is exhibits 16 and 17, if I can just show those photos to exemplify this point about not designing out cycling. So, there is a tunnel with space for a cycle facility to be added later and there is a bridge; the same applies.

500. I would just very quickly touch on other assurances. We have talked about cycle proofing work sites. This is where we have made some progress. HS2 has offered to adopt, literally on a draft assurance they sent us last night, a TfL standard for managing cycle safety around work sites. That is a document I wasn’t previously familiar with. I hope the Committee will give us time to just look at whether we have the right balance between an acceptable amount of caveated wording where appropriate. We understand why that wording is there, but if the standard itself allows enough wriggle room, then we should at least have a process whereby any exceptions to the standard are discussed by the Cycle Proofing Working Group.

501. THE CHAIR: Let us have your witness.

502. MR GEFFEN: So, we come now to specific locations. John, would you like to introduce yourself?

**Evidence of Mr Grimshaw**

503. MR GRIMSHAW: My name is John Grimshaw. I am an engineer. I did the design for the Department for Transport for a cycling route from London to Leeds and Manchester, so I am reasonably familiar with Phases One, Two and Three. Are you
able to get to these exhibits? I am sorry, I don’t know the numbers of them.

504. MR GEFFEN: Exhibit number 21.

505. MR GRIMSHAW: S10, please.

506. MR WIGGIN: It is A412(4).

507. MR GRIMSHAW: I believe, Chairman, that you considered Yarnfield yesterday. I would like to show you just two examples. I looked at all the interfaces between Uxbridge and Crewe. There are 41 interfaces on Phase One and Phase 2A where HS2 can make a real difference to adjoining adjacent communities and where if they don’t take action during their construction those communities will be divided and separated for ever. Yarnfield to Stone is a classic one. It is three kilometres to the station. The community have long wanted to deal with the narrow road and your colleague here who has just gone wanted a specific entrance. On this map I have shown in red on the right-hand side the overall route, which I have orientated to match your railway, and the red section is the section that is within your red lines and your control.

508. If you build a proper cycling route there, i.e. two and a half metres or so wide, the authorities will be able to make the connections in yellow. If you don’t build it, then that connection can never be made. So, that is one example and it is worth pointing out that on a motorway the existing road bridge over the motorway has an asymmetrical bridge, i.e. with a wider footway on one side than the other and we would petition that HS2 do that for all bridges over HS2. It will cost no more. The overall width will be the same but it will allow now or in the future walking and cycling routes to come through, whereas two modest widths don’t work at all.

509. If we could just flip back, please, to S4, which is near Lichfield at the beginning of the route, this is the other example I would like to bring to the Committee’s attention. King’s Bromley is quite a long way from Lichfield. It is five miles but it is separated by a main road and you can’t possibly cycle it. The red section is the section that HS2 plan to build as a works access route and one of our petitions, sir, is that all your works access roads are made available to the public thereafter as a walking and cycling route. Now, most of your works access routes – permanent access routes – are designed to go to balancing ponds and lakes and that sort of thing. They will be very occasionally
used, maybe one vehicle a month, and if they could be made available for the public, numerous links will come in place.

510. MR WIGGIN: Are these existing?

511. MR GRIMSHAW: No, the red is what you propose to build.

512. MR WIGGIN: But there are rights of way?

513. MR GRIMSHAW: There are no rights of way and I think you can see that the green are existing rights of way on the map on the right. If you create the red, then there will be a direct route from King’s Bromley to Lichfield and the communities will be linked together.

514. MR WIGGIN: But that is quite outside the remit for HS2, isn’t it?

515. MR GRIMSHAW: The whole of the red is your remit. It’s your works access routes, sir.

516. MR WIGGIN: They are works access routes but they are not public routes. Is that right?

517. MR GRIMSHAW: The point is they are access routes for you to maintain the ponds you are building.

518. MR WIGGIN: Sorry, not me. I’m not going anywhere. It’s HS2.

519. MR GRIMSHAW: Sorry, HS2 are building various balancing ponds which they have to maintain in perpetuity.

520. MR WIGGIN: That’s right.

521. MR GRIMSHAW: To maintain them they are building the red route there, which will be a gravel road.

522. MR WIGGIN: But those routes go through people’s private property and HS2 maintain the right to maintain their balancing ponds. Have I got that right?

523. MR GRIMSHAW: I believe the routes are permanently belonging to HS2. They
(Extracted text)
He will give the land to HS2. We have planning consent and HS2 have still not agreed.

532. MR WIGGIN: I am sorry, not from the landowner but planning permission from the local authority?

533. MR GRIMSHAW: Indeed.

534. MR WIGGIN: It is their remit, isn’t it?

535. MR GRIMSHAW: Where we are outside the redline area, then as I’ve shown in the case at Stone, another party would have to deal with that, but there is no reason at all within the redline area why HS2 can’t provide those rights. So, in this example at King’s Bromley, the whole of the red section could be permitted to the public because it is within the construction boundaries.

536. THE CHAIR: We will hear from HS2 now. Mr Mould?

Response by Mr Mould

537. MR MOULD QC (DfT): Thank you. I am going to ask Mr Miller to come and just assist you on these points. Whilst he is going there, whilst it is fresh in your mind could we put up P1145(3)? This is from the assurance letter that was just provided to the petitioner to give you an example at four of a footpath at Tixall. That is an example of the kind of thing that Mr Grimshaw was referring to. The Secretary of State will require the nominated undertaker to construct a particular way to the requisite standard, but then it will be for the petitioner to obtain the necessary legal rights. If you go down the page to six you will see that a sum of money has been allocated so that they have the funds they need to be able to do that. You have two examples of that, I think. Actually, Tixall is the one example of that on that page. The other particular footpaths referred to in the assurance letter are already being dealt with under the terms of the Bill including, for example, upgrading the footpath between Hopton and Coton to a bridleway.

538. MR WIGGIN: So, is the £15,000 for this particular example or is that for cycling overall?

539. MR MOULD QC (DfT): That is for this example and if there are other examples where the petitioner comes forward and then says, ‘We’d like to promote with the local
authority a public path creation agreement in relation to a length of footway or bridleway that crosses your railway’, that sum of money is available to support that.

540. MR WIGGIN: So, what is the total pot available for cycling?

541. MR MOULD QC (DFT): That is the total pot.

542. MR WIGGIN: The total pot?

543. MR MOULD QC (DFT): Yes. In other words, we are not expecting necessarily that the Tixall change is going to use it all up, that is the point. Now, Mr Miller, can we just turn to the question of lorries? P1142(8), please. Lorry safety, if you remember, and reference to the CLOC standard. Just very briefly tell the Committee, please, what is HS2’s committed approach to the standards of safety in relation to lorries and cyclists during construction.

Evidence of Mr Miller

544. MR MILLER: We are committed to the CLOC standard. I think I have said to the Committee before that safety is our highest priority on the project and we are clearly looking at how we can make improvements to driver training, the type of vehicles that actually operate through our construction sites and to make that as safe as possible on the routes that they share with other road users.

545. MR MOULD QC (DFT): If we turn to the direct vision initiative, the next page, page 11429, what is the project’s position in relation to that scheme, please and its application to Phase 2A?

546. MR MILLER: The aim of that is to look at the emerging standards or the emerging approaches to safety. Clearly, there is a lot of action that is going on in the London area. I think we all read about some of the accidents that have occurred over recent years and there is a lot of action around this. So, you might think of TfL as being a centre of excellence thinking about these standards, and as that comes forward in due course that will affect the construction industry and we will take account of that as it comes forward.

547. MR MARTIN: Could I just intervene there? If TfL impose a direct vision
standard for contractors’ vehicles in London for that section of HS2, if it is possible there, then presumably it would be possible on any other part of the route as well?

548. MR MILLER: It might be possible. I think what has already been alluded to is the availability of these sorts of vehicles and as to changing the whole nature of the fleet, the construction fleet, you simply can’t do that overnight. We have to be careful and ensure that we are including everybody in our construction of the contracts. We don’t want to preclude small and medium-sized enterprises from actually carrying out business and working as part of HS2. One of the emphasis that we placed on our procurements is to get as many small and medium enterprises in the scheme of things so that they benefit from the investment that comes from the public purse to build HS2. So, it might well be something that comes on through a period of time and the fleet changes in due course. It is a similar sort of thing to the air quality and the Euro 6 type of vehicles. A few years ago, there were very few vehicles like that on the roads. Now you see a lot of those vehicles on the London roads – fewer outside of London – but the fleet is changing. So, I think it will change in due course, and with the timeframes that we are talking about for getting HS2 on site, for Phase One actually building in the middle of next year, we will start to reap the benefit of these changes through the fleet. When it comes to Phase 2A – that is some years away – then the whole nature of the fleet will have changed again. So, I think that this is a case of working with the industry, being encouraging and innovative in the way that we bring our purchasing power to bear, but also to recognise that the industry can’t just shift overnight. They are not going to change a fleet of vehicles immediately overnight.

549. MR MARTIN: Would it be possible to have some sort of scheme where HS2 promoted the sale of vehicles that had been used by contractors in the London area on to the contractors in the next area as you move up the sites?

550. MR MILLER: The whole industry of the construction vehicle fleet is very complex and one of the things it does rely on is the second-hand price of those vehicles and how that gets handed on in the industry. That is why I am saying to you that the way the construction industry works is that you get these progressive changes over a period of time. Eventually a lot of those vehicles will come off the road because they are burning too much fuel or they are not meeting the safe standards, so they become obsolete, but you have to be careful about how that works, and the second-hand market
in construction vehicles is an important part of this going forward. So, yes, other people will pick up on those nearly as good vehicles, but then gradually they get shunted out of the system.

551. MR MOULD QC (DFT): Can I turn then to the question of design, and designing in cyclists and cycle proofing? We were shown the table at A403(11) by Mr Geffen, table 2.2.2, with minimum provision for cycle routes. Mr Miller, if we go back to A403(4), I just want to make sure we understand the context of it. This is a document which is entitled, ‘Interim Advice Note 195/16 Cycle Traffic in the Strategic Road Network.’ If you look at 1.1, does that tell us what kind of roads this document is actually giving guidance about?

552. MR MILLER: Yes, this is really about, as it says in the title, the strategic road network. That is not everything, and when you go through the advice note it does talk about segregation of cyclists in those circumstances. So, these are the busiest and heaviest used roads in the country. There are methods in here of separating cyclists to make sure that they are accounted for properly whether a new road comes forward or whether an existing road is altered for some reason. So, on HS2 if we alter a strategic road or we alter the way that a strategic road is accessed, then we will look at this interim advice.

553. MR MARTIN: A strategic road network is basically a network of all the roads which no sane cyclist would ever cycle along, for the most part. As somebody who has cycled for 56 years, I have cycled on a couple of strategic roads in the past but I try very hard to avoid them whenever I possibly can. This is not really relevant to the majority of the routes that the majority of cyclists would use most of the time, is it?

554. MR MILLER: Not through HS2. There are occasional tough points where we have altered the network and in those circumstances we will take account of that guidance.

555. The other guidance that the gentleman brought forward earlier was the Welsh guidance, which operates across other roads and that is also taken into account. So, HS2’s approach to cyclists is one which is balanced and proportionate and what it is trying to do is take account of the situation it finds itself in. So, if there is a busy, important strategic road that is altered or added to, then this would apply. For other
roads, other standards apply. But then, when you are looking at all of the other smaller roads you have to look at all of the different situations you find yourself in. As Mrs Murray pointed out, some of these roads, as we know, some of the sunken lanes, for example, that we have visited, they’re not straightforward for taking into account all of the cycling standards that are out there but we do accommodate cyclists wherever they have an opportunity to cross.

556. MR MOULD QC (DFT): Can I go on, please, to 1142(1) where I think we draw those points together at the final bullet there, Mr Miller. I think you have just told us that where we are dealing with strategic roads, the standards we have just seen are HS2 standards but that we take account of the Welsh standards where we are dealing with a wider network of highways.

557. MR MILLER: Yes, that’s right. We look at all of these things. We are part of the DfT organisation and it should come as no surprise that we will look at these standards as they are developed and take those into account with our proposals. I think we will maybe come on to a couple of examples, but we can show how the cycle network has actually improved in the light of HS2 and some of the arrangements that we have designed in.

558. MR MOULD QC (DFT): If we go to P1142(4) we have a slide which just sets out our estimate of the cost of rigidly adhering to those strategic road standards for every underbridge on the HS2 Phase 2A route. Is that right?

559. MR MILLER: Yes, it is. There are a number of bridge crossings of the HS2 railway which add to the cost, and the estimators have looked at about £15 million in addition to the current plans.

560. MR MOULD QC (DFT): Perhaps we can just put up the assurance that has been offered about cycle proofing, P1145(2), assurance one there.

561. MR MILLER: Yes, it is about engagement and we do engage. I understand the Cycle Proofing Working Group on Phase One was attended in September, I think, last year. I think there has been a subsequent follow-up to that and there have been a variety of meetings that have taken place with the Highways Sub-Group on Phase One through the planning forum. That was the route which was talked about at the time on Phase
One for dealing with these sorts of matters and, of course, the Highways Authority ultimately have an important role in all of this to finalise the design as we bring forward the detailed consents for the final scheme design.

562. MR MOULD QC (DFT): And the previous page of this assurance letter conveniently identifies the Cycle Proofing Working Group. It is a DfT group, which has the membership which you see set out at the bottom of the page there. So, it is a standing group of DfT effectively. Is that right?

563. MR MILLER: Yes, it is, yes.

564. MR WHITFIELD: Clearly, you heard evidence that the inter-relationship had not been particularly successful on that group. We also heard evidence about moving, in essence, the non-vehicle part of bridges and tunnels and that it wouldn’t cost a substantial amount of money to offset that so they were both one side of the road rather than split as two narrow sections down the edge of each. There was a very high figure given there for altering all of the bridges and tunnels, so presumably that was taking into account the stuff on either side of the bridge or tunnel, the embankment or the cutting into it. What would the cost be, in your best estimate, of just doing the work on the bridge or tunnel and leaving it to those communities on each side to facilitate the way into the tunnel or over the bridge? It can’t possibly be £15 million.

565. MR MILLER: I suppose if you looked at the Yarnfield Lane example, we heard just yesterday that there are concerns from the local planning authority about the width of that road. They also pointed out that their view was that part of it should be straightened out, and we are making some widenings along that line of the route for HS2’s construction traffic. I would hazard a guess that they are very concerned about cyclists along that route and we know that it is actually quite difficult to put in an additional lane there because some of the arrangements that we would have to be putting in would be to take a widening within again a sunken road and then we would be restoring that.

566. MR WHITFIELD: I am sorry to interrupt you.

567. MR MILLER: Your question was about the cost. It is actually quite difficult to cost that and whether there is any desire locally to put money in to do that sort of thing.
568. MR WHITFIELD: I think my question about costs was just in relation to and in respect of a tunnel or bridge over the top and leaving the responsibility to the communities if they want the connection because if you don’t do it on the bridge and you don’t do it in the tunnel, it is never going to happen. If you, as HS2, just take the responsibility for the bridge or tunnel, it then provides the opportunity for those communities, should it develop, should it be needed, but if you don’t do it, it’s never going to happen.

569. MR MILLER: Where we have taken that forward positively is where we have been linking up with cycle routes, I suppose, so that bridleways will accept cyclists. I don’t know if we can bring up the example of Tittensor Road on the map.

570. MR MOULD QC (DFT): A412(5).

571. MR MILLER: We saw this earlier with the lady from the North Staffs Bridleways. In here, I have given evidence to this Committee before, what we are trying to do is to link up a bridleway which can take cyclists here and take them over a new bridleway route which was to deal with Sandyford Farm’s concerns about routing that traffic through their farm, bring it down the Tittensor Road here, and you will remember what I said was that where we have made this bridleway connection, which cyclists can use, that bridge gives the right width and a safe width to enable that to happen. Then if you look at how the design is actually baked into the consideration of HS2, you can see how the bridleway then goes through the mitigation land, so that is a quiet route for foot users, bridle users and cyclists and it brings it down on to Stab Lane, which we have shut off from the railway but then that becomes a quieter route which takes you down into Swinton. So, it is not right to say that we have not taken this into account. We have definitely taken it into account because we have linked up those bridleways which can take cyclists. So, that future proofing is in that design.

572. MR MOULD QC (DFT): Can we just go to A412(2), please? I just want you to comment briefly on the other example given. What I think the Committee may not be aware of is that the Canal and River Trust sought and received from us an assurance to provide an alternative route to this balancing pond that is being shown here. Instead of building the access road leaping around the southern end of the Pyford Brook embankment, the assurance is to seek to bring it round through the southern end of the
viaduct here because they were concerned about having a hard roadway right up against what is, in their view, a very attractive stretch of the canal.

573. So, Mr Miller, with that knowledge of that assurance given earlier this week, and it was in fact one of the principal reasons why they didn’t feel it necessary to appear before you, is the quite ambitious proposition you see on the screen in front of you. Is it actually a realistic proposition in light of the Bill?

574. MR MILLER: No, it isn’t, because ultimately that new route will enable the access to the balancing ponds through this access underneath Pyford Brook by that part of the embankment, not this other end. And this is where the canal users have been enjoying the moorings and so forth that you’ve heard about. It’s quite an ambitious plan this because it requires another bridge– sorry, can I have the map– it would require another bridge here at point on this petitioner’s plan. There are no powers for that. There are no obvious routes to get on to the towpath here. And, if you follow this route up, whilst yes it will follow one of our access tracks in the permanent place, there are no tracks up here like bridleways, for example, that this route is linking up. If you look at the wider map, the bridleways are above Fradley Junction here and they follow up in this direction through to King’s Bromley.

575. THE CHAIR: Okay. Mr Mould does that bring us to a conclusion?

576. MR MOULD QC (DfT): I was just going to put up 1142(4) again just so lest there’s any misunderstanding. The cost figure that was given that was given a few minutes ago, you can see, was on the assumption of adding a two-way cycle way on one side of each of the bridges along the HS2 Phase 2A route. I think the point that we would make is, of course, there may be further room for consideration of a less ambitious policy of future-proofing of the kind that Mr Whitfield, I think, had in mind. That was all. Thank you.

577. THE CHAIR: Okay. Mr Geffen, feel free to take just a minute or so. We’ve gone over double the time which is going to inconvenience lots of people later on so just a minute.

578. MR GEFFEN: Okay. Thank you very much. Firstly, on the point about lorries. The point was made, I think, correctly that Phase 2A will start later. Therefore, the
applicability of standards from London to Phase 2A there will be a time lag in which the lorry industry will be able to effectively be forewarned and starting adjusting its lorry fleet straight away because the commitment will be made, hopefully, soon, i.e., at the time the Bill is made sometime before the construction works start to be let. It strikes me that following TfL standards is not unreasonable given there is actually a time lag between application in London and their implementation elsewhere further north. On the point about the use of the Highways England design standard, can I just bring up A402(27) which is the equivalent table from the Welsh design standard? This is not a standard that is merely applicable to motorways and trunk roads. This is something that the Welsh Government has adopted throughout Wales. Now, clearly, its implementation will take time. But when new works are being done, this is the sort of standard that the Welsh Government would expect highway authorities in Wales to apply.

579. THE CHAIR: Thank you. Let’s move on to our next petitioner. Thank you for petitioning. There will be two or three votes at 3.30 p.m. so if we can bear that in mind in terms of our pace. Welcome. As you’re getting settled, I always remind petitioners tell us what you want, why and, if you can’t have it, what we can do to mitigate for you. The clearer you can be, the more likely we are to be able to give you what you want. Over to you.

**Little Ingestre Care Ltd**

**Submissions by Ms Walters**

580. MS WALTERS: Good afternoon. Please can I have A349(2)? I’m Abigail Walters of Shakespeare Martineau on behalf of Little Ingestre Care Ltd. There are three things to point out about the location of the petitioner’s property. The first one is that the care home is in a quiet hamlet in a very tranquil village. HS2 feel that the care home is somewhat remote from the construction activity and I think that’s the problem of seeing it on a plan. Having stood on the access drive to the care home, which is identified there, it’s very clearly when you’re standing there that the location of the railway, the construction compound and the construction activities immediately adjoin that area. It’s literally in the next field and it’s not going to feel remote to the care home. They’ll be surrounded on three sides by construction activity. In AP1, which
I’m sure you’re familiar with where that is, brings the construction activity closer to home and, obviously, they’re concerned about future additional provisions.

581. Secondly, it’s important to understand that Ingestre Park Road is a no-through road so the only access to and from the new roundabout here is past the construction compound on the right and along the construction traffic route and then onwards towards the care home. So, that’s not an ideal approach to the care home for residents, their families or new residents.

582. And, thirdly, immediately behind the care home, so literally just there backing on to the care home is a residential property that’s now owned by HS2. Given its location, it must’ve been acquired under a need-to-sell or equivalent. So, HS2 must’ve accepted in purchasing it that the property was close enough to the route to have substantial adverse effects either from the construction or operation of this phase and that they’ve now been unable to sell the property in this location. So, I would imagine that the same aspects that put off potential purchasers of the residential property would equally be considerations for concerned family members placing their loved ones in a care home following, for instance, a brain injury. HS2’s approach to the impacts in this location are, therefore, directly contradictory because they say in relation to the care home business that they do not envisage that the business will suffer.

583. So, in terms of what the care home are seeking from HS2. If we could go to slide A349(3). There are a number of things that the care home are seeking from HS2, some of which have been addressed by way of assurances on traffic, access in particular and noise; further noise work that will be carried out in terms of assessing the impact on the actual receptors being the residents in the care home in order to identify some, trigger action levels and appropriate mitigation in one form or another, if appropriate if mitigation is required. I don’t know if these assurances need to be read out at any stage and be recorded and whether that’s not something that you’re –

584. THE CHAIR: They don’t. And this is very, very helpful what you’ve provided and very clear so thank you for that.

585. MS WALTERS: Those assurances deal with the first five points. That takes us down to the sixth point. It’s obviously hoped that, through the mitigation and careful management, the care home and its residents will not be affected by HS2. However,
that’s unknown and uncertain. And what the petitioner is seeking is a financial commitment to protect the care home from closure if there is an impact on occupation during the construction phase and that’s the primary concern, is the construction phase. The care home usually operates to full capacity and it isn’t viable to keep the care home running if it’s not kept substantially full during the construction phase. So, what is sought is an undertaking from HS2 that a claim for losses can be made, subject to the usual tests of mitigation and reasonableness fully evidenced as any other claim for compensation would be.

586. And what we’re seeking from the Committee because HS2 have failed to agree that with us is a direction or an interim direction to persuade HS2 that that is necessary. The loss of the care home if it’s not viable to continue running the care home would result in a loss of 21 full-time jobs, 4 part-time jobs and that’s in a rural area. And it would result, most importantly, in the loss of the home for 15 residents. Some of those residents have been there for 30 years. Change is exceptionally upsetting for the residents and their families given their complex health needs. And, obviously, the residents of the care home have protected characteristics under the Equality Act and HS2 have duties to meet their needs and to make reasonable adjustments in respect of the residents of the care home.

587. The care home doesn’t feature in the Equality Act impact assessment. HS2 say this is because ES did not present any likely significant impact. We say that this is because the impacts on the specific receptors at the care home were not considered. And, in any event, the Equality Act impact assessment certainly did not consider the loss of the care home in this area which we would contend is a very realistic possibility during the construction phase. So, what we are asking for is outside the statutory compensation code. However, regard has to be had to the exceptional and unique circumstances in this case. Please could you bring up P7(44)? It should be P7(44). It should be HS2’s introduction to compensation for HS2 Phase 2A.

588. THE CHAIR: I’ll be guided by you but this is so good, this slide. I know you were preparing to have a witness. Would it not make sense to hear from HS2 and then permit you more time? I think I’ve got what you want and the rest is perhaps not necessary detail.
589. MS WALTERS: If I may finish later but I’m very happy for you to hear from HS2 in the interim. And then if it’s not necessary for me to finish then –

590. THE CHAIR: I think that may focus us a bit more. So, Mr Mould can we hear HS2’s position on what’s required?

Response by Mr Mould

591. MR MOULD QC (DfT): Yes, the position as I understand it, of the bullet points on the page in front of you, the only one outstanding is the penultimate one.

592. THE CHAIR: Right.

593. MR MOULD QC (DfT): The rest are covered by the assurances that have –

594. THE CHAIR: Right, let’s focus entirely on the penultimate one.

595. MR MOULD QC (DfT): The short point is the way in which, under the usual approach in law and in practice, one looks to safeguard facilities of this kind is to set up a plan which triggers the need for action and then if the triggers are pulled then a decision is made at the time and in the full knowledge of all the circumstances that have caused the trigger to be pulled. Focus is then on what action needs to be taken in order to mitigate. That action might start with whether there are ways in which the construction of the railway could be managed in a different way so as to deal with the exceedance. It might focus on whether there are physical measures that could be taken such as whether there’s some focussed secondary glazing of that kind that could be installed or it might focus on whether there is a need to identify some alternative accommodation for a period of time in order to address a particularly severe period of disruption.

596. I should say straight away, we stand by our assessment that the impact of the construction of the railway on this care home even allowing for its sensitivity, which I acknowledge, is not going to give rise to those kind of problems. If we just put up P1153(1) which is the latest and, I think, probably the accepted version. You see the reference to the trigger action plan. That’s the first assurance; it’s a detailed assurance. If you go to the next page, what I have just put to you is subsumed within 138.
597. THE CHAIR: Can I just check…? When that flashed up I think it was today’s date.

598. MR MOULD QC (DfT): That’s today’s date.

599. THE CHAIR: Has the petitioner seen this document?

600. MS WALTERS: Yes, we’ve seen this document. It deals with noise which is not the point that I’m making.

601. THE CHAIR: Okay. Well, fair point but back to Mr Mould.

602. MR MOULD QC (DfT): I know there’s a point about blight as well and I’ll come to that. I’m dealing with the actual at the moment and then I’ll come to perceived.

603. THE CHAIR: I’m totally happy with what you’re doing.

604. MR MOULD QC (DfT): 138. The plan will need to include, and have agreed between the parties, the provision of mitigation measures if any are required to be implemented in advance of the construction of the proposed scheme. And if it’s felt that those should extend in the, we say, very unlikely event of something sufficiently serious to require some sort of alternative accommodation to be identified and made available then that is, in principle, within the palette of measures that could be agreed there. I say that to deal with the actual impact of construction of the railway, this scheme which you see is in this assurance letter is sufficient. And it follows a model that we adopted on Phase One in relation to the special school at Wendover, for example, and a model we followed with the sensitive photographic studio in the Park Village Studios in Euston. Turning then to the perception, I know there’s a concern and I understand the concern about the willingness of clients of the care home to continue to use it in circumstances where they’re worried what the experience might be for sensitive residents of the care home during the construction works.

605. Then we turn to the Secretary of State’s non-statutory policies. And, as you know, the Secretary of State has as part of his package a policy that is focused on, to use the heading, ‘atypical properties’ which exhibit special circumstances. And if the care home find over the coming period that notwithstanding that they’d have secured a bespoke series of assurances, notwithstanding they will under the terms of those
assurances they will be the owners of a focused noise mitigation plan with targets set out, a commitment to maintain access to the property throughout the construction of the railway and a commitment to pay their reasonable costs of their own professional advice in relation to the noise plan. If they’re not able to persuade their clients that those are enough to guarantee, if you will, that the care home will remain suitable and a reasonable environment for patients and residents to be in then they can approach the Secretary of State. And one thing we do know, because it’s common ground between HS2 and these petitioners, that the nature of the use that is happening here and the sensitivity of those who are their client base, if I can use that term, those are prima facie a people for whom, in principle, if it’s necessary to make special arrangements, those are precisely the kind of target group for whom that is needed.

606. Ms Walters refers quite properly to the Equality Act. As I understand it, there’s a range of patients and range of residents who use this care home. But, certainly, I understand that some of their regular client base would certainly exhibit, to use the technical terminology, ‘protected characteristics’ for whom reasonable adjustments would need to be made. What I am to some degree dancing around and I’ll come to that now is the point that she touched on. It has never been and it is not the policy of the law to make compensation to any commercial or residential party whose occupation of their premises is affected by major construction works. It’s never been the policy of the law to enable them to recover what they say are lost profits or reduced turnover that they have suffered as a result of those construction works. That’s been a principle that’s been established since the House of Lords considered it, the Judicial Committee of the House of Lords considered it in a case that was decided about 30 or 35 years ago now. It was reaffirmed by the House of Lords in a case called *Wildtree Hotels* which was decided just at the turn of the century, in about 1999 I think it was. Obviously, I’m not going to show you those cases unless you want to. So –

607. THE CHAIR: So, let’s just say, whatever happens in terms of noise mitigation, they lose halfway through the construction half of their residents –

608. MR MOULD QC (DfT): Yes.

609. THE CHAIR: – nobody else comes in. The Secretary of State feels it is an atypical case. What would they get?
610. MR MOULD QC (DfT): Well, if then, let us assume that they make their application and they say, ‘We would like you please to acquire this property from us’ and the Secretary of State agrees to do so, they would receive the full unblighted market value of the premises. But they wouldn’t receive any reimbursement of the loss of business, loss of profits that they suffer. So, that brings you back to that focus. I cannot today, for the reasons I have just given to you, and this is the point that has been relayed to the petitioners, I cannot say to you on behalf of the Secretary of State that he agrees to take that what are in legal terms that unprecedented step. You have to consider it. I’m not inviting you to do it. But all I’m saying is I’m afraid it is one of those cases where I have to draw the line at the –

611. THE CHAIR: I think you’ve made your position clear. I think I understand your position. Martin?

612. MR WHITFIELD: HS2 accept the sensitivity in respect of this business in the sense that simply because of the numbers of the people employed and the cost of that. For them to lose just a few rooms, I use that word very carefully, that would put a pressure on this business that would probably lead to its closure whereas some other form of business, were it to lose just a small percentage of its work, would be unlikely to have such a catastrophic effect and quite so quickly and simply because it’s a human resource driven business, it’s a care business with the people who are there.

613. MR MOULD QC (DfT): I don’t, as you put it, accept that unreservedly. I see the force of the point that this is the kind of business where that might be more of a concern than it might be with other types of business. But it reinforces the point that I put to you, which is the right approach in my submission, is to build on the mitigation arrangements that are set out in this assurance and to seek to build into that, as far as possible, mitigation techniques including, where necessary, looking for some sort of temporary accommodation so that the business can continue to function without the need to go against that very well-established principle about reimbursing loss of profits.

614. MR WHITFIELD: So, it would be right to possibly then suggest you may be able to agree with the fact that what is essential here is the trigger actions because the consequence of it, both in the existing residents who would have to find somewhere else, the employment and those connected with it are much greater in this case than
perhaps which is why all you, rightly I would suggest, pointed your emphasis at these trigger actions –

615. MR MOULD QC (DfT): Absolutely.

616. MR WHITFIELD: – and looking at it as a unique business in a circumstance that has occurred.

617. MR MOULD QC (DfT): That’s right and exactly why I thought you ought to see 138 because that’s really where the business end of this. And the devil will be in the detail there but it really is vital that that is addressed with a proper understanding –

618. MR WHITFIELD: Yes.

619. MR MOULD QC (DfT): – of the true business circumstances of this business. And that, obviously, is something that can only come through a careful, collaborative approach to developing those mitigation measures. And, I hope, and you may feel this is useful, that focus as we move away from the uncertainty which generates blight which, of course, is quite high when we’re at this stage in the process. We still haven’t got powers to build this railway. That’s why this Bill is before you. But as we move beyond that stage to the design, developing and the construction regime being more detailed and bedded in, the prospect of blight reducing then, of course, takes –

620. THE CHAIR: I think we’re coming to a conclusion anyway. Sandy?

621. MR MARTIN: This is an entirely different matter, Chair. And I wonder if I could ask Ms Walters first. You said that the Ingestre Park Road is a no-through road. But I noticed that if you look on P1133 there is ‘BOAT 1’ which from my time spent unprofitably on a rights of way committee I think stands for ‘bridleway open to all traffic’. There’s quite a substantial number of properties in Ingestre off that bridleway open to all traffic and that turns into Trent Lane which then goes across to the A51. Is that actually a very difficult route? Is it available to traffic?

622. MS WALTERS: My understanding, and I haven’t the benefit of a highways consultant to look into this because, obviously, my client can’t afford to go around instructing numerous consultants, is that it’s not an adopted public highway. It’s not particularly accessible. There’s a bridge at one point. I’m not sure if it’s accessible by
emergency vehicles. Certainly, the access that the care home and their residents take is from that route and I don’t think it’s an option for them to route people around over a narrow humpback bridge or whatever it may be. So, unfortunately, I don’t have a perfect answer on exactly how accessible or not that is. But it isn’t an adopted public highway and it isn’t being improved by HS2 as part of this is my understanding.

623. MR MARTIN: Well, that’s what it’s going to take me onto, Ms Walters, because as I said there are a substantial number of other properties as well all leading into Ingestre Park Road. It is going to be very difficult for HS2 to maintain access through the works on Ingestre Park Road at all times. And I would have thought, and maybe Mr Mould – I mean, unfortunately, we do not have a map which includes Trent Lane. It is only just off the maps that we have got but, unfortunately, we haven’t actually got a map which includes Trent Lane.

624. I would’ve thought improving… P1132, you can see in the top left-hand corner a very small map which has got the start of Trent – no, zoom out a bit, no sorry you keep taking it away – the bit right at the top left-hand corner. There you can see Trent Lane. Then it goes across to the A51 there. If you were to improve that road it would actually give better access for most of Ingestre onto the A51 and would avoid the problem of people not being able to get through the works while you’re doing them. And I would’ve thought, from the point of view of actually helping the people who use the care home, it would be much better for them to have an alternative route and not have to drive through the works while they were going on. I would’ve thought that’s probably more of a danger for you in the future than any noise you may or may not…I mean you’re a substantial distance away from the works. The real difficulty is going to be driving through them. What do you think Mr Mould?

625. MR MOULD QC (DfT): What do I think? Well, I know that we have looked at the proposition that you have just outlined and it is by no means uncontroversial. A byway open to all traffic, a minor highway, you often find that people who live off it and use it as their private driveway, they value the fact that it isn’t adopted or display those urbanising features that a more engineered road would do. The real answer to the point is this. As you know, a number of petitioners from Ingestre have expressed concern about the risk of having their access interfered with along Ingestre Park Road and we have given assurances to all of those including the highway authority. We’ve
given the same assurance to this petitioner that we will not prevent vehicular access including emergency service access to Ingestre via that road in all reasonably foreseeable circumstances. You remember I’ve explained to you in the past, the only qualification that I take there is just in case something really quite unexpected arises, one discovers a piece of unexploded ordnance or something like that, or a gas main explodes or something like that. But, essentially, the project is confident enough to be able to give that assurance to not only these petitioners but also to others whose principal access to Ingestre is via Ingestre Park Road. If the highway authority who are responsible for that byway open to all traffic, if in due course, exercising their powers under the Bill, they take the view that we should look further at that then, obviously, we would have to do so. So, I hope that –

626. THE CHAIR: Can we direct you to initiate a conversation around that which wouldn’t commit you to doing it but it would commit you to considering doing it.

627. MR MOULD QC (DfT): You could. You’d also, I’m sure, have in mind that that is not within the Bill limits so anything we do there would have to be dealt with under whatever powers are available under the general law.

628. THE CHAIR: I’m relatively relaxed about that.

629. MS WALTERS: May I respond and continue to the extent that it’s relevant? Taking into account –

630. THE CHAIR: Just to warn you. I think that in two minutes there’ll be votes. The bell will go. The clerk will let you know when we’re coming back. It’s likely to be at least half an hour so we’re probably not going to be back and running until 4 o’clock.

631. MS WALTERS: Okay.

632. THE CHAIR: But apologies for that inconvenience. But, certainly, don’t rush for the next two minutes.

633. MS WALTERS: Okay. So, if we may have P7(44)? I don’t know why it’s not on your system. So, it says, ‘Atypical properties or special circumstances decided by the Department of Transport on a case by case basis where owner-occupied may be appropriate to supplement non-statutory property schemes’. So, you’ve got non-
statutory property schemes like need-to-sell and you’ve also got atypical properties or special circumstances. It’s a discretionary policy over and above the case law which Mr Mould is referring to.

634. THE CHAIR: Thank you. So, I am going to have to pause you. We’ll be back around 4.00 p.m. or after, depending on votes.

Sitting suspended.

On resuming –

635. MS WALTERS: I’ll carry on responding to Mr Mould?

636. THE CHAIR: Absolutely. Just remind us where we were and carry on.

637. MS WALTERS: So in response to Mr Mould, we’re happy with the noise action plan. It will address the noise impacts; that’s as far as it goes. I think Mr Mould was slightly mixing the issues. It will not in itself protect the business from the construction impacts overall or the perception. If the businesses closes it isn’t just the loss of a business in this instance; it’s the loss of a home for the remaining residents.

638. MR WIGGIN: Can I ask you a question about that?

639. MS WALTERS: Yes.

640. MR WIGGIN: Given the nature of your residents, what would make them leave? It wouldn’t be the residents’ choice; it would be the families’.

641. MS WALTERS: Well, families or local authorities deciding that it is an inappropriate location given their health needs, or death, and then the need to refill the space, which happens obviously sadly –

642. MR WIGGIN: Inevitably.

643. MS WALTERS: Yes.

644. MR WIGGIN: But that wouldn’t be HS2’s fault.

645. MS WALTERS: No, the death wouldn’t be HS2’s –
646. MR WIGGIN: We’ve accused them of pretty much everything else, not that I think.

647. MR WIGGIN: So actually if you go back to your first case which is the ones where the family withdraw, actually given that they can still reach their loved ones, there is no reason why they should withdraw, is there?

648. MS WALTERS: They may have a perception or a concern that it is dusty, noisy, there’s vibration impact, they’re living in the middle of construction compound, there’s lots of additional workers there, they may not want them –

649. MR WIGGIN: I’m not sure they are in a construction compound.

650. MS WALTERS: Well, it depends on how you define ‘in a construction compound’.

651. MR WIGGIN: Okay. But then that does sort of matter I’m afraid.

652. MS WALTERS: It’s a perception point, a bit like needing to sell and not being able to sell your property, it’s a perception point.

653. MR WIGGIN: Yes, but if that is the case I think you’re covered by HS2 revisiting their impact at a later date when more detail is known, is that right?

654. MS WALTERS: No. You mean Mr Mould’s suggestion that under this policy we can come back at a later date?

655. MR WIGGIN: No, it’s not that; it’s that given that quite a lot of the plans as they are at the moment – so sort of, ‘This is what’s likely to happen, but we may be able to improve it’ – if then they don’t improve it and it is as bad as you fear, you do have the right to ask them to look again at your property and the effect on it. I believe that’s right and of course Mr Mould will correct me if I’m wrong.

656. MS WALTERS: In terms of compensation, because we are asking for something unique here that would fall into this type of policy, unless you make a direction to that effect it will be very difficult for the petitioner to secure that type of compensation subsequently when there’s not a forum like a Select Committee hearing to be heard at because it is difficult to engage HS2 in compensation negotiations where your situation
is unique.

657. MR WIGGIN: I think it’s quite within our ability as a Committee to make sure that should you find yourself blighted in a way that you are worried about, that wasn’t addressed at this particular instance, HS2 would come beetling back to see you; that isn’t difficult for us to do. What is difficult I suspect – and again please correct me if you think I’ve got it wrong – is to assume it’s going to be as bad as you think before the final details have actually taken place.

658. MS WALTERS: Well, that’s probably correct but which is why we want a last resort ability to claim if there’s a loss and if that loss arises from HS2 and if that can be evidenced and subject to mitigation and reasonableness. What we want to do is set up a position now where there’s certainty for the business that they will have a claim avenue because at the moment the statutory compensation code is failing them and this discretionary compensation provision is an option, but it’s only an option that HS2 are going to engage with if you direct them to.

659. MR WIGGIN: But every business wants what you’ve just outlined and doesn’t necessarily have an HS2 standing by to necessarily help.

660. MS WALTERS: No, but not every business provides a home for 15 people with protected characteristics under the Equalities Act, so it’s not just a self-centred business occupier seeking to maintain a business position; it is also about providing a home for those people who have been there for a long period of time to whom change is disruptive.

661. MR WIGGIN: I quite agree. But you said, and again I’m open to correction on this, that if one of your clients were to die, which unfortunately does happen, that would be an entirely arbitrary thing and not caused by anything we’ve discussed here, then you wouldn’t necessarily be able to find another client, which we don’t know, and that would jeopardise the whole business. That’s the impression I’ve got, so please correct me.

662. MS WALTERS: So the care home is full and it’s always full, and when somebody dies sadly then they refill that space quickly so that –
MR WIGGIN: And you probably have a waiting list?

MS WALTERS: Well, I don’t know if they have a waiting list because you don’t know when somebody’s going to die – I haven’t been told about waiting lists; I have no instructions on waiting lists. But once there is a space available then it’s refilled quickly; they’re always at full occupancy. If they stay at full occupancy that’s perfect, isn’t it? The home’s been there for 35 years; it could be there for another 35 years. The problem now is that HS2 may jeopardise the ability to refill those spaces when somebody dies.

The client doesn’t feel it’s very likely that long-term residents will move due to concerns over the construction impact because they would rather have the stability of the home with the staff that they know and the environment –

MR WIGGIN: Exactly.

MS WALTERS: He’s more concerned about refilling the spaces during the construction period because of the impact of the construction.

MR WIGGIN: But the point we got back to is that we won’t really know what the impact of the construction is until it begins. And so what you need from us is the promise that they will negotiate with you again should it be as bad as you expect.

MS WALTERS: Or set an undertaking up, confidential or otherwise, as a necessary undertaking which gives us the right to make a claim in the relevant circumstance which provides the business with certainty. Now, obviously HS2 say there will be no impact; well, that’s fantastic because then there will be no compensation and there will be no cost, so there really is no risk to HS2 in those circumstances. Where however the construction period does have an impact then there is a scheme available to us which we can negotiate under this provision which is a discretionary provision and sits outside the statutory compensation so the case law that Mr Mould referred to sits outside this –

MR WIGGIN: Can I just check, Chairman, with Mr Mould that I’ve understood it correctly that they would be able to come back to you whether so instructed by this Committee or not if it’s as bad as they think it’s going to be?
671. **MR MOULD QC (DfT):** Yes, and paragraph 138 that I showed you in the letter – it’s not even a case of reacting. The idea of that is that the plan itself will identify ideally a range of measures that will be brought into effect in the event that the trigger is pulled, so it’s designed to –

672. **MR WIGGIN:** Sorry, you’ve made a funny face there, Abigail, so I’m sorry –

673. **MS WALTERS:** 138 is mitigation in relation to noise and Mr Mould is not suggesting that that gives us a compensation avenue and that’s not my understanding. It’s mitigation in relation to noise measures, so I feel he’s mixing the issues.

674. **THE CHAIR:** Do you want to come back, Mr Mould?

675. **MR MOULD QC (DfT):** Of course I am not departing from the submission I made to you earlier that the one thing, if you like, that is not something I’m able to offer is the prospect of financial compensation for loss of profits or loss of turnover.

676. **MR WIGGIN:** I think that’s a little bit of a muddle because what you’ve promised is that the noise would be an issue, but actually it’s not noise or financial compensation; it’s impact and that means blight, traffic, closing roads, making it impossible for a well-meaning person to put their loved one in this home. That’s rather different from any of the usual conditions that we deal with, don’t you think?

677. **MR MOULD QC (DfT):** Well, the reason I focussed on the noise is because that’s the most likely –

678. **MR WIGGIN:** Not in this case, though, funnily enough.

679. **MR MOULD QC (DfT):** Well, we – alright.

680. **THE CHAIR:** Strictly speaking, we don’t know, do we?

681. **MR MOULD QC (DfT):** No.

682. **THE CHAIR:** Can I just ask: if the Committee were to direct the Secretary of State to consider this an atypical case if the business was adversely affected, would that give you everything that you require? I’m not saying that’s what we’re going to say, but I’m just checking if that would give you what you require.
683. MS WALTERS: It would certainly help because it would be an indication to HS2 that it should be considering compensation under that atypical situation and then it would need to be negotiated with HS2 and discussed with HS2. Of course the direction doesn’t go as far as requiring them to conclude those negotiations, but it would be a definite start.

684. THE CHAIR: Sandy?

685. MR MARTIN: Chair, I’m struggling to understand what everyone’s asking for here because I don’t think that people are necessarily talking the same language. It occurs to me that what matters for Ms Walters is what she actually gets at the end of it if the situation is bad, and it seems to me that there is only one final backstop that she can rely on if things are worse than they are expecting which is that she can require HS2 to purchase the property. That’s the only ultimate recourse that she has; that’s what you’re saying, isn’t it?

686. MR MOULD QC (DfT): I drew your attention to the atypical properties regime precisely for that purpose. If their case is that it’s all got too bad they can then apply to the Secretary of State to buy it. Of course, I can’t tell you that he will do so, but –

687. MR MARTIN: No, but that is the remedy that you are proposing, is that Mr Walters should be able to require or ask the Secretary of State to require that her property should be purchased.

688. MR MOULD QC (DfT): As I understand it, yes, exactly.

689. MR MARTIN: And that is the only ultimate recourse that you are –

690. MR MOULD QC (DfT): Well, that application could be –

691. MR MARTIN: Mitigation, yes, but compensation – that is the only actual compensation that is available.

692. MR MOULD QC (DfT): It is the compensation that would be available.

693. MR MARTIN: And am I right in saying that – please correct me if I’m wrong – that no other person has actually received actual compensation for loss of business or financial compensation as a result of their business being in difficulties other than being
able to sell the property?

694. MR MOULD QC (DfT): You’re absolutely right. It is an established principle of the law of land compensation which is carried over into the Secretary of State’s non-statutory schemes that where blight is the harm the remedy is purchase of the property and the price paid is the open market value of the property, sometimes with, sometimes without the moving cost.

695. But it does not include – in none of those schemes either statutory or non-statutory is a property that is not subject to compulsory purchase under the Bill… In none of those schemes where the property is otherwise not required for the railway does the Secretary of State pay compensation for loss of profits. It’s always the compensation is the unblighted open market value of the premises in question.

696. MR MARTIN: I’m sorry, Ms Walters, I’m not seeking to close down your options; what I’m seeking to do is to actually identify what those options really are so that we cannot be proceeding under your false expectation of getting something that’s not available.

697. MS WALTERS: So the home isn’t seeking to have the property acquired in the same way that you would do in blight because they don’t want to sell the property; they want to continue to run the home and provide a home for the residents with protected characteristics. And nor would it be helpful, I don’t think, for the residents to be temporarily relocated because that’s very disruptive and so I feel that HS2 are misunderstanding the nature of the residents by suggesting that in their earlier submission. But if we could go back to the slide on – the colourful one.

698. It’s a non-statutory compensational scheme and so HS2 could compensate on any basis that they feel like because it’s not an established compensation scheme for atypical properties or special circumstances. So were they to feel it was worth a funding gap in retaining a home for people with protected characteristics under the Disabilities Act then they could legitimately do that, couldn’t they, Mr Mould?

699. THE CHAIR: Sorry, we’re not cross-examining Mr Mould.

700. MR MOULD QC (DfT): It is tempting, I know. Carry on.
701. MS WALTERS: So it’s a discretionary compensation scheme and if HS2 wanted to provide that protection given the nature of the occupants then they could, and they’re more likely to do that if you make a direction to that effect.

702. THE CHAIR: Martin?

703. MR WHITFIELD: The big question is the period of time that you would seek the funding because if it was a payment that covered one week for one room that ensured the business would continue then I don’t think anyone would think that was unreasonable. If it was to run a building with only one room occupied for 32 years there may be the other end of the scheme. Where would you expect to find the meeting point that the taxpayer would think was reasonable, the Secretary of State would think was reasonable, and gives due regard to the very unique character of the customers of the home?

704. MS WALTERS: I think all of those details would be something that could be subject to detailed negotiation and certainly there’d be a de minimis loss of beds, one or two, that could be – the business could still operate at profit, so there’s firstly that.

705. Then obviously it would only apply during the construction period in any event so in operation, they’re not seeking that to continue into operation. And there could be a de minimis level below which it’s not worth maintaining the care home as well, or action plans are put in place to try and move people on and then close the care home for instance.

706. But it’s all capable of negotiation and obviously evidence would have to be provided that the reason that people weren’t choosing to locate there was because of the construction impacts of HS2; otherwise the element of claim wouldn’t be allowable. And there would be a continued attempt to – there’d be obligations in relation to a continued attempt to fill the rooms and so the home would hope to be able to continue with the rooms full and HS2 have said themselves that there should be no impact.

707. So in that circumstance the impact on the public according to HS2 should be none, it’s just that the business needs some certainty and this is the forum in which is their best chance to achieve that.
708. MR WHITFIELD: Second question. Do you think that the residents should have a claim?

709. MS WALTERS: Well, the residents if they get to continue in occupation of their home then presumably that would achieve their objectives so –

710. MR WHITFIELD: If the home were to have to close and they were to have to be rehoused – and there is a particular sensitivity with regard to the customer’s clients that you have on rehousing, that’s fairly well-established – what would your view then be?

711. MS WALTERS: Well, if you would like to direct HS2 to also provide compensation in those circumstances then I’m sure that the residents would be grateful. But it isn’t what we’re seeking today.

712. MR WHITFIELD: I just wonder whether you think because they are a particular and very specific grouping of people that have been identified in law as requiring additional input in the sense of how things happen, whether or not that should occasion them the right in this situation if the home had to close.

713. MS WALTERS: Well, if this support is provided then the home won’t need to close, so they will then have the opportunity themselves to stay because that’s where they want to be or to leave because that’s what they want to do, so they have the choice. But the problem is –

714. MR WHITFIELD: But is it going to be a problem anyway because of all the steps that HS2 are going to put into place?

715. MS WALTERS: Yes. But if they wanted to leave, if they wanted to move on they could. The problem comes where they want to stay but it’s no longer viable to maintain them in that location and then they lose their home of 30 years.

716. MR WHITFIELD: I’m grateful.

717. THE CHAIR: I think we’ve said all that can be said, does that seem right? There’s nothing remaining. I’m conscious you’ve not called your witness but actually your evidence has been good on its own. You’re nodding. Well, can I thank everyone? This concludes a part of the process – that’s not just at the end of one petitioner, but a
larger process. So thank you very much everyone, we look forward to producing and circulating a report and look forward to coming back to additional provision 2. Mr Mould?

718. MR MOULD QC (DfT): I was just going to say I understood you had a question about one of the bridleways that was mentioned earlier.

719. THE CHAIR: Thank you very much. Could you –

720. MR MOULD QC (DfT): I can deal with that for you.

721. THE CHAIR: That would be – yes, thank you.

722. MR MOULD QC (DfT): It’s CT06228A. If you remember we were next to Shelton Under Harley Farm and you were being asked just to look at this footpath here. And what the petitioner this morning drew your attention to was that there is an existing claim with the local authority to add as a bridleway a stretch of alleged ancient way between the cursor at the end of the footpath 58 here and going across this route here and joining onto the green lane that you can see running up here.

723. And the gist of her case I think was that HS2 should take steps to facilitate the realisation of that claim if it were to succeed and the definitive footpath and bridleway map were to be amended to allow it. And the difficulty I pointed to was that in so far as that required the use of Bent lane to provide a diverted route along this line here to get under the underpass here it would potentially clash with an assurance given to Lord Stafford about the stopping-up of this length of Bent Lane which is authorised under the Bill.

724. Now, I may be able to give you some assistance on this. If you just look at – if we can just pick it out there is a footpath that runs – if we just pick it up on the West Coast Main Line here, it runs alongside this balancing pond, footpath 10, do you see? It’s diverted slightly around the balancing pond; then it continues on its existing line up here. At the moment it goes diagonally across this direction.

725. In order to add the railway to be built it’s diverted and then it goes underneath the railway at this underbridge. If the petitioner’s claim for a bridleway over this length were to succeed then one can see how what would be required would be to enable the
horse riders to turn left at this point along Bent Lane and then to join on and to go through that under-bridge. The underbridge can be designed so as to accommodate horse riders so that’s not the pinch point, the only issue is getting –

726. MR WIGGIN: Can I just – why do they need to go to where the cursor is now when they reach the end of footpath 58? Why don’t they simply follow the footpath? They could, couldn’t they?

727. MR MOULD QC (DfT): Well, they say, ‘If we succeed in establishing that there is an ancient bridleway right here, we want to be able to use it’; that’s their point. And so I’m saying at the moment that may or may not succeed, that claim, but if it succeeds in order to make it work in practice they’d ride their horses or ponies to this point and then they’d need to follow Bent Lane here, turn right under the underbridge. So the only question is: would you like us to see whether we can accommodate that with Lord Stafford or you’re happy to let that take its course and…?

728. MR WIGGIN: I don’t understand why it doesn’t go up footpath 58 or the dotted line where the cursor is now.

729. MR MOULD QC (DfT): That would need to be reclassified as a –

730. MR WIGGIN: But that might be an easier option because it’s already an existing footpath, so reclassifying it – well, you’d have to do that anyway to the other bit, wouldn’t you? Sorry.

731. MR MOULD QC (DfT): Well, it would be the basis of the claim with the local authority is that it’s a bridleway.

732. MR WIGGIN: Yes, that takes care of the grey bit, but then you are creating a new bridleway between where the cursor is and where the grey line reached –

733. MR MOULD QC (DfT): That’s absolutely right.

734. MR WIGGIN: So you’re creating a new bridleway of about the same size whether you go along the top or along the footpath.

735. MR MOULD QC (DfT): I’m very happy to take away that HS2 would be willing in the event that that claim succeeds – the ancient rights claim succeeds – HS2 would
take away approaching the local authority to reclassifying that stretch of the footpath to reclassify that as a bridleway rather than a – because we could seek to reach agreement with the local authority on that because that length of –

736. MR WIGGIN: There isn’t a feature at the end of the bridleway that would be particularly interesting or exciting for someone on horseback to visit, is there?

737. MR MOULD QC (DfT): If there is it’s not one that I’m familiar with I have to say.

738. MR WIGGIN: No, nor me.

739. MR MOULD QC (DfT): What there will be in future is a very desirable feature which is a length of the HS2 railway line which –

740. THE CHAIR: Sandy has a question.

741. MR MARTIN: There’s the various points about this. What’s this greyish blue blob?

742. MR MOULD QC (DfT): It’s a piece of flood storage area – on the ground it will appear as a shallow scoop in the field.

743. MR MARTIN: Right, okay, but I mean that won’t be in the final thing?

744. MR MOULD QC (DfT): Well, you can see that the footpath will across –

745. MR MARTIN: Yes, okay. I mean, this isn’t the same sort of colours as you have your final outcome maps usually and so if it’s a final outcome and it’s a socking great big marsh or something then that’s going to be a bit difficult for your footpath anyway, isn’t it? Secondly are you – you are actually intending to retain that bit of footpath because clearly you’re not intending to retain it north of the page?

746. MR MOULD QC (DfT): No, I don’t think it would be retained, but clearly it’s necessary to show it and to make sure that it remains useable once the –

747. MR MARTIN: Well, yes, no, this is absolutely crucial, Mr Mould, I’m sorry, because I’m not clear now. From where the cursor is now up to the new road it doesn’t look as if you are actually intending to retain that piece of footpath. It looks as if you’re
attending to divert that anyway. You’ve got ‘marsh’ here and you’ve got no break in the hedge marked.

748. MR MOULD QC (DfT): That length of footpath is an existing footpath line which isn’t affected by the –

749. MR MARTIN: It’s not affected by going through the middle of a marsh land?

750. MR MOULD QC (DfT): No, the hedge line, I’m afraid that’s just a function of the way the notation is done. It would have to go through that hedge line; there would be a gap there.

751. MR MARTIN: Okay. And then it actually reaches Bent Lane so whatever you do you’re going to have to get permission from Lord Stafford to make it a viable thing anyway, are you not?

752. MR MOULD QC (DfT): Yes, that is already provided for. The issue here is providing bridleway routes.

753. MR MARTIN: Okay. So all I would say is I don’t think we’re particularly worried whether you use the line of the existing footpath or the line of the grey line; what we want to know is that there will be a viable bridleway which will enable people to get to the underpass and get underneath the –

754. MR MOULD QC (DfT): Well, that’s very helpful. In the event that the bridleway claim succeeds then we see that –

755. MR WIGGIN: You aren’t sponsoring that claim, are you?

756. MR MOULD QC (DfT): No, that’s entirely a matter between Bridleways Association and the local authority. That’s entirely unaffected by HS2. It may or may not succeed and if it doesn’t succeed the whole problem goes away. If it does succeed I think I’m very clear on what you think we should do.

757. MR MARTIN: Well, sorry, Mr Mould, no, I can’t let you off that easily because if Lord Stafford is absolutely determined that nobody should be allowed to walk or ride a horse on his land and that Bent Lane needs to be kept in violet and virgin and pure and unused, then you have got a problem with your redirected footpath, haven’t you?
You’ve got to find a redirection to your footpath.

758. MR MOULD QC (DfT): I don’t think there’s any suggestion that Lord Stafford is inimical to people using the footpath, I think it would be unfair to him for me to suggest that that was the case. All I’m saying is that at the moment until today there was certainly no public suggestion that Lord Stafford should also accommodate not only footpath users, but also effectively from his point of view a new length of bridleway. He may or may not be entirely comfortable with that and it would be for us to go away and to raise that with him.

759. But I think I understand that you’re taking a very pragmatic approach which is if the bridleway claim succeeds but it were sensible to run a stretch of bridleway from the end of FP58 up through the flood storage area and up to Bent Lane that might be a way of achieving the same end. And I’m certainly happy to pursue that.

760. MR MARTIN: Thank you very much.

761. THE CHAIR: Thank you, Mr Mould. We will see you in the not too distant future again. Thanks again to all your team; I know there have been some ups and downs and some long nights and working over the weekend, so thank you to all the team for what they have done.

762. MR MOULD QC (DfT): That’s very kind of you.

763. THE CHAIR: The Committee will now meet in private.