



Department  
for Transport

# House of Lords Select Committee on the High Speed Rail (London - West Midlands) Bill

Promoter's Response to the Select Committee's  
Special Report of Session 2016-17

**Moving Britain Ahead**





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Special Report of Session 2016-17

Presented to Parliament  
by the Secretary of State for Transport  
by Command of Her Majesty

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## Introduction

1. This document constitutes the response of the Promoter of the High Speed Rail (London - West Midlands) Bill to the Special Report of the 2016-17 session (hereafter referred to as 'the report') published on 15 December 2016 by the House of Lords Select Committee on the High Speed Rail (London - West Midlands) Bill (hereafter referred to as 'the Bill').
2. The Bill is being promoted by the Secretary of State for Transport. Responsibility for delivering the various actions that are outlined in this response will rest with either HS2 Ltd, the Department for Transport or the relevant nominated undertaker. The terms 'Promoter' and 'we' are used at various points in this document to encompass all of these parties.
3. The Select Committee made clear in their report that they have confined their directions and recommendations to areas where they felt an intervention was necessary and in cases where they do not expressly mention anything, it can be assumed that they were content not to intervene on the position taken by the Promoter. This response similarly aims to only address the matters raised by the Select Committee in their report, where an action from the Promoter was sought or where a clarification was deemed to be beneficial.
4. Commitments given in this document are subject to delivery within existing Bill powers unless otherwise expressly stated. Where existing assurances are referenced, the reader may wish to refer to the full Register of Undertakings and Assurances for the complete text upon which the Secretary of State is bound<sup>1</sup>.

## Promoter's response

### *Hearing petitions and approaches to decisions*

5. In paragraph 39 of the report the Select Committee said:

*"We heard many complaints from petitioners that the promoter was slow to respond during negotiations and that interaction with the promoter could be sporadic and frustrating. Moreover, it was put to us that the promoter seemed, on occasion, to wish to go back on commitments previously given in good faith. It is impossible for us to come to a judgment on all such allegations, but as the bill moves towards Royal Assent and the building of the railway begins, it will be imperative that communication between the promoter and petitioners is timely and constructive—on both sides. We consider this issue further in Chapter Ten."*

6. The Promoter and HS2 Ltd have endeavoured to communicate effectively with petitioners throughout the Bill process. However, we acknowledge the concerns highlighted by the Select Committee and recognise that scope exists for improved

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<sup>1</sup> The latest version of the draft register of undertakings and assurances can be found at <https://www.gov.uk/government/publications/high-speed-rail-london-west-midlands-bill-register-of-undertakings-and-assurances>

engagement. The Promoter has responded to this and HS2 Ltd has a new Community Engagement Directorate. Within this there is a Phase One community engagement team that has been tasked with supporting and working with the organisation heading into delivery. The Directorate also includes the public response team, and having these two teams in the same Directorate will help ensure that the flows of information into and out of HS2 Ltd are aligned. In addition, the Promoter is committed to working along the line of route with those communities affected by the programme. This will include looking at ways to develop genuine and timely two-way engagement.

7. In paragraph 42 of the report the Select Committee said:

*“The Register of Undertakings and Assurances is an important resource in this regard. Maintained by the promoter, it details all commitments offered throughout the parliamentary proceedings of the bill, recording in a single document all the individual undertakings and assurances given to petitioners and to Parliament. The Register will help to ensure that the nominated undertaker, the Secretary of State for Transport, and any other organisation exercising the powers provided for by the Act, complies with them throughout the project.”*

8. The Register of Undertakings and Assurances details all the commitments offered during the passage of the Bill until Royal Assent, after which the final register will be published<sup>2</sup>. The register includes all undertakings and assurances given including:

- any assurances given to petitioners in letters from HS2 Ltd or the Department for Transport on behalf of the Secretary of State for Transport;
- all undertakings entered into by petitioners and the Secretary of State for Transport; and
- all route-wide assurances given in the HS2 Information Papers with routewide application (see section A of the register).

9. Any agreement yet to be finalised at the date of Royal Assent will be included in section C of the register and dates will be updated as the agreements are signed. The register has been and will continue to be included in all design and construction contracts to ensure compliance throughout the project lifecycle by all contractors doing works on behalf of HS2 Ltd. All contractors are legally required to comply with the Environmental Minimum Requirements (and, therefore, the Register of Undertakings and Assurances).

### *Directions given during proceedings*

10. In paragraphs 44-46 of the report the Select Committee said:

*“On 20 July 2016, we ruled that Robert and Patricia Edwards (petition no.*

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*011), whose personal circumstances and livelihood are severely affected by the railway, should receive a home loss payment and should be paid any additional costs such as stamp duty land tax on a replacement residential property, domestic removal costs and similar extras that might be payable, had their property been located within the safeguarded area. Our ruling was accepted by the promoter and we sincerely hope that the promoter and the petitioner can work together effectively to ensure that the outcome we directed is achieved.*

*In a similar vein, on 16 November 2016, we heard the petition of Mr Paul Kelleher and his wife, Sonia Kelleher (petition no. 263), who live at Hill House, Chalfont Lane, West Hyde, in very close proximity to what will be the largest and busiest of all the compounds in the entire HS2 Phase One project. We ruled the following day that the promoter should offer to acquire their house on the same terms, including home loss payment, as if their house had been safeguarded and acquired under the express purchase scheme.*

*On 21 November 2016, at the end of a protracted sitting where we did not reach all the petitioners due to be heard that day, we indicated our provisional view that the case of Mr Gustavson (one of the petitioners we did not reach) ought to be treated in the same way as the two petitioners referred to above. The promoter heeded our steer and duly offered Mr Gustavson (petition no. 066) the same terms for acquisition of his land as if it were being compulsorily acquired.”*

11. The Promoter has accepted the Select Committee’s ruling on Robert and Patricia Edwards and following further engagement a claim is under negotiation.

12. The Promoter has accepted the Select Committee’s ruling on Paul and Sonia Kelleher and will commence early engagement with the petitioners to acquire their property under special circumstances. The basis of the acquisition would be on the same terms as if their property had been safeguarded and acquired under the Express Purchase Scheme.

13. The Promoter has accepted the Select Committee’s suggestion and has written to Mr Gustavson, inviting him to provide further information to enable the purchase to proceed.

### *Edward McMahon (petition no. 008)*

14. In paragraph 55 of the report the Select Committee said:

*“Progress, however, appeared to stall and we revisited the case with the promoter. A letter from the promoter to Mr McMahon of 26 October 2016 seems to have got matters moving in the right direction. As with the Banister family below, the promoter must ensure that it gives high priority to cases where the railway will have a devastating effect on people’s lives. We trust that the promoter will do everything possible to assist Mr McMahon, who has had to endure a great deal of stress and uncertainty about his family’s future, and we urge that a generous outcome should be arrived at as soon as possible.”*

15. The Promoter is at an advanced stage of negotiations for Mr McMahon's land with completion expected very soon.

### *Laurence, Matthew and Alison Reddy (petition no. 243)*

16. In paragraph 56 of the report the Select Committee said:

*"The petitioners are the owners of Parklands, Kingsbury Road, Marston, Birmingham. Their property, in which they have invested a lot of money, will be required for the construction of the railway because it is at the location of the extensive Kingsbury railhead. Mr Reddy stressed the importance of receiving fair compensation for his family's land. The promoter confirmed that the petitioners will be entitled to compensation for the loss of their property, and that compensation should reflect the fair value of the property (including development value, apart from the HS2 scheme). This petition caught our attention because of the dramatic effect that the railway will have on this family. We hope that negotiations can proceed smoothly. Again, we urge the promoter to engage effectively with a family which could hardly be more affected by HS2."*

17. The Promoter has engaged with the petitioner and a blight application is awaited, which will be considered once it has been received.

### *HW Taroni Metals Ltd (petition no. 594)*

18. In paragraph 59 of the report the Select Committee said:

*"We do not conclude that the promoter is taking the three-metre strip unnecessarily. Nevertheless, we have great sympathy with the petitioner, whose positive and constructive attitude is to be applauded, and we direct that the petitioner's legitimate interests must be central to the detailed design stage so that, if at all possible, the three-metre strip can be reduced and the business can remain viable, while accommodating the requirements of the highway authority. We also hope that the period of time for which the seven-metre worksite is required can be reduced as far as possible."*

19. The Promoter recognises that HW Taroni Metals Ltd wishes to remain in occupation of its premises adjacent to Aston Church Road during the construction of the scheme. The Promoter has given an assurance to HW Taroni Metals Ltd that provides that, as long as a suitable alternative can be delivered, it will not be necessary to carry out the improvements to the junction of Arley Road and Aston Church Road proposed in Additional Provision 2 to the Bill in the House of Commons and instead the Promoter will be able to revert to the scheme in the Bill as originally deposited. If the Promoter reverts to the original Bill scheme this would require a strip of land to be acquired permanently from Plot 236 (in the ownership of HW Taroni Metals Ltd) as well as additional land in that plot for a worksite needed to construct Work 3/215, which is the realignment of Aston Church Road, as the Select Committee identifies. The Promoter has given assurances to seek to reassure HW Taroni Metals Ltd that, if the original Bill scheme is reverted to and they remain in



occupation of part of Plots 235 and 236 during construction, the nominated undertaker will be required to use reasonable endeavours to reduce so far as reasonably practicable the amount of Plot 236 required permanently for Work 3/215. This includes consideration of whether the part of the embankment proposed to be located on Plot 236 could be replaced by a sheet pile wall with a separate vehicle restraint system. An assurance has also been given to seek to provide reassurance to HW Taroni Metals Ltd that the nominated undertaker will engage with them during the detailed design stage and construction of Work 3/215 in order to reduce so far as reasonably practicable the impacts of Work 3/215 on their business on Plot 236 in which they remain in occupation during its construction, and that will include reducing so far as reasonably practicable the period of time for which “the seven-metre worksite” is required.

### *Coleshill Estate (petition no. 523)*

20. In paragraph 63 of the report the Select Committee said:

*“We are not convinced by the promoter’s case for the acquisition of the Brickfield land from the Coleshill Estate. We regret that the hard-pressed people of Chelmsley Wood are to lose even a small part of Heath Park, and we very much hope that Solihull will revisit the proposed development of the Bluebell Recreation Ground. That is not an issue for us, but we understand from a recent letter that it will not be taken for housing. We conclude that the acquisition should be removed from the bill. We have therefore amended Clause 4.”*

21. While the Promoter acknowledges the Select Committee’s decision in respect of the provision of permanent replacement open space on land at Brickfield Farm (“the Brickfield land”) and the subsequent amendment to the Bill, the Promoter also shares the Select Committee’s regret that this means that the residents of Chelmsley Wood are to permanently lose a portion of Heath Park, which, with Bluebell Recreation Ground, constitutes what little public open space is available locally. The Promoter will therefore work with Solihull Metropolitan Borough Council to consider, within the limits and powers of the Bill, reasonable ways to reduce the temporary impacts of construction and the permanent impacts of the operation of the railway on Heath Park, and on the users of both Heath Park and Bluebell Recreation Ground. Any solutions agreed that fall outside the limits and powers of the Bill will be for Solihull Metropolitan Borough Council to deliver in its role as the local planning authority.

### *Burton Green Village Hall Trustees (petition no. 760)*

22. In paragraph 65 of the report the Select Committee said:

*“The petitioners stressed the importance of the relocation of the village hall in Burton Green, Warwickshire, as a like-for-like replacement. The promoter has already agreed to provide a new village hall, as the existing one is so close to the line of route that it will have to be demolished. The trustees’ evidence was that, as a result of the new hall’s position on a lower site, there is a problem about making a connection with the main sewer. The problem is capable of*

*being solved, if necessary, by the installation of an electric pump. Nevertheless, we draw attention to the matter here as the principle of equivalent replacement is important, and amenities in places like Burton Green, where the railway will have a severe impact, must not be lost or downgraded. The village hall is an important element of local life. Like-for-like replacement in Burton Green, and elsewhere on the route, must mean precisely that.”*

23. The Promoter will pay compensation covering the costs of a like for like replacement of the village hall under equivalent reinstatement, including appropriate means of dealing with sewage disposal.

### *Andrew and Jennifer Jones (petition No. 706)*

24. In paragraph 69 of the report the Select Committee said:

*“In response, the promoter set out the compensation to which the petitioners were entitled, concluding that it was likely that compensation would exceed the cost estimate for new stable buildings. This is to be welcomed and we hope that matters can be taken forward promptly so that the petitioners’ stables, which are important to them, are replaced appropriately and at no cost to the petitioners.”*

25. The Promoter will engage with Andrew and Jennifer Jones and progress negotiations on their claim promptly on its submission.

### *Ivan, Heather and Nancy Banister (petition no. 749)*

26. In paragraph 72 of the report the Select Committee said:

*“While this was welcome news, and we hope that resolution can now be reached on all points, this has been a regrettable episode. The predicament facing the Banister family merited regular and sustained engagement and they should not have been forced to come and talk to us to stimulate action. We urge both parties to work together to ensure a successful outcome. It is in the nature of large infrastructure projects that there are undeserving casualties, such as Warden Farms, but the goal must be to ensure that this petitioner, and all others in similar circumstances, are properly compensated and do not suffer more than is truly unavoidable as a result of a scheme not of their making. We consider route-wide farming issues relevant to this petition and others in Chapter 10.”*

27. The Promoter has engaged with the petitioners and they are considering submitting a blight application on the affected land, which will be taken forward when received.

### *Mr and Mrs Raitt (petition no. 041)*

28. In paragraph 74 of the report the Select Committee said:

*“The dispute centred, however, on whether Mr and Mrs Raitt should receive additional payments equivalent to the payments they would receive if their property was within the safeguarded area. Mr and Mrs Raitt are the only remaining inhabitants of a settlement which has been destroyed by the project. This is a special case and we direct that the petitioners should receive payment of unblighted market value for their property, home loss payment, and all additional costs, such as removal costs, legal fees and stamp duty on their new home, as they would if their property was within the safeguarded area.”*

29. The Promoter has accepted the Select Committee’s direction and will commence early engagement with Mr and Mrs Raitt to acquire their property under special circumstances. The basis of the acquisition would be on the same terms as if their property had been safeguarded and acquired under the Express Purchase Scheme.

### *Chetwode Parochial Church Council (petition no. 074)*

30. In paragraph 78 of the report the Select Committee said:

*“We agree with the promoter’s stance. It must be right to wait and see. We wish, however, to place on record our firm conviction that it is imperative that this historic village should have a future, and that, if need be, measures are taken to ensure that the church can continue to flourish and remain at the heart of Chetwode life. It would be a tragedy if Chetwode Church were to become a monument to the impact inflicted by HS2.”*

31. The Promoter recognises the importance of the Church of St Mary and St Nicholas to the local community of Chetwode. As the Select Committee acknowledges, the Promoter has already taken steps to secure the physical protection of the building and to ensure that it can continue to be used and enjoyed as it is currently. The nominated undertaker will continue to liaise with local representatives during construction and will consider any further reasonably practicable measures that may be required to protect the church from the effects of the scheme.

### *Springfield Farming Ltd (petition no. 132)*

32. In paragraph 80 of the report the Select Committee said:

*“The promoter conceded, however, that it was not possible to provide Mr Lewis with absolute certainty about the future; hence, the assurances given to Mr Lewis necessarily contained a series of caveats. A point made regularly by the promoter, and one with which we have some sympathy, is that it can*

*be very difficult to provide absolute certainty at this stage of the project. We would agree that a delicate balance must be struck between mitigating impacts on petitioners and ensuring that the project is taken forward in an effective and timely fashion. Nevertheless, we consider that Mr Lewis' case for the provision of an alternative haul route is a strong one and we urge that strenuous efforts are made, and no stone left unturned, in work to provide the alternative haul route that he seeks."*

33. An assurance has already been given by the Promoter that will require the nominated undertaker to route the proposed construction access road along the alignment preferred by Mr Lewis as long as:

- this does not create new significant adverse environmental effects that cannot be mitigated;
- a workable geometric alignment can be achieved;
- it does not adversely affect the economic, timely and safe construction of the railway; and
- the necessary consents are obtained in time.

34. The Promoter believes that these are reasonable conditions given that we would not wish to generate new significant adverse environmental effects upon others in the area, nor do we believe that the Select Committee would wish to see the delivery of the railway delayed due to a relocation of this access road. However, given the Select Committee's desire to assist Mr Lewis, not only will the Promoter require the nominated undertaker to seek and pay for the necessary consents under the Bill regime, he will also require that this be done as early in the programme as reasonably practicable. This should give Mr Lewis the comfort of knowing that all is being done to attempt to gain the necessary consents to enable the alternative haul road to progress.

### *Mr Geoffrey Brunt (petition no. 338)*

35. In paragraph 84 of the report the Select Committee said:

*"We sympathise with the petitioner's case, which was well-made and compelling. While we acknowledge the number of regulatory actors involved and cannot opine on technical detail, we recommend that at the detailed design stage the most serious consideration should be given to the petitioner's case. The most strenuous efforts must be made to help the petitioner and we fully expect him to receive a much better outcome than the current proposal."*

36. The Promoter has already offered an assurance to Mr Brunt that the land drainage area would be moved so that only one of his fields is affected. The Promoter has also provided an assurance that we would design the approach of the footbridge so as to reduce the land required for the footbridge, subject to both meeting design standards for such a structure and gaining the necessary consents. Both of these assurances are conditional on such activities being reasonably

practicable. As the Select Committee acknowledge, the nominated undertaker will be constrained by the powers in the Bill and the requirement to obtain any necessary consents. Given these constraints, and the need to avoid incurring unreasonable costs, we cannot guarantee that changes will be deliverable, but we confirm our continuing commitment to reducing the land-take on Mr Brunt's farm as far as we reasonably can.

*Robert and Sara Dixon (petition no. 600), James Adam and Others (petition no. 378), Sheila Ansell (petition no. 822) and Rosemary and Ian Chisholm (petition no. 370)*

37. In paragraph 87 of the report the Select Committee said:

*"We therefore direct that the promoter should work with the highway authority, Buckinghamshire County Council, to provide improved and continuous footpaths on the London Road between Rocky Lane and the point where the high-speed railway will cross it on a viaduct. The London Road will be even more dangerous and difficult to cross on foot, especially for children and the elderly."*

38. The Promoter has already provided an assurance to Buckinghamshire County Council to provide a footway which will join up the existing footways between the last property on the western side of the A413 (on the Wendover side) and a point just north of the Small Dean viaduct crossing. With Buckinghamshire County Council (as the local highway authority), the Promoter will also explore the possibility of providing a further footway on the eastern side of the A413. It may not be possible to accommodate a footway here without significant vegetation clearance up to the highway boundary. This could create a 'suburban' appearance to the road, which at that point is still within the Chilterns AONB. As such, the Promoter would only undertake to provide such a footway if all interested parties agreed that this was appropriate and all necessary consents were forthcoming.

*Mary Godfrey and Claudia and Crescenzo D'Alessandro (petition nos. 386 and 249)*

39. In paragraph 88 of the report the Select Committee said:

*"The petitioners are neighbours, living at 2 and 3 Hunts Green Cottages, Hunts Green, The Lee, Great Missenden, Buckinghamshire. They expressed concerns about the proximity of a proposed spoil heap (175m) and the impact that noise and dust would have on their health, well-being and their immediate environment. They argued that the spoil heap should be moved so it was further away from their properties. In response, the promoter highlighted an assurance stating that it would, subject to obtaining planning permission, move the spoil heap to the other side of the railway— significantly further away from the Hunts Green Cottages. We sympathise with the petitioners' case, which was well made, and we urge the promoter to do everything possible to deliver on their assurance. A good outcome would appear possible."*

40. As the Select Committee acknowledges, the assurance already provided to the landowner of Hunt's Green Farm will allow the landowner to seek the necessary consents required for the nominated undertaker to use the landowner's preferred location for material stockpiling. If those consents are not forthcoming, the Promoter has also agreed to seek to minimise the impact in other ways. The nominated undertaker will actively support the applications by the landowner to help achieve the consents, will remain in ongoing dialogue with the landowner and agents, and will seek to provide timely and helpful responses to all queries.

### *Iver Parish Council, Iver Community Group and Richings Park Residents' Association (petition nos. 639, 702 and 666)*

41. In paragraph 92 of the report the Select Committee said:

*"We have found the principal point raised by these petitioners difficult, not least because comparisons with other locations on the route are both invidious and in a sense irrelevant—each case needs to be determined on its own merits. It does seem to us, however, that Iver is a special case and we invite the promoter to re-consider whether the provision of a specific allocation might be appropriate."*

42. Taking into account the Select Committee's comments about the impacts on Iver Parish of relocating the Heathrow Express depot to Langley, the Promoter will provide an assurance regarding a fund for Iver of up to £500,000 for use on schemes which enhance the public realm, or demonstrably improve pedestrian or cyclist experience, in the areas of Iver Parish affected by the depot relocation. This will be confirmed in a separate assurance letter to Buckinghamshire County Council. The text of the assurance to be offered is at Annex A.

### *Double 4 Limited (petition no. 293)*

43. In paragraph 94 of the report the Select Committee said:

*"This site is of vital importance to the project and after carefully considering the evidence put to us we conclude that it is probably the case that there is not room on the site for Double 4 to operate alongside HS2. We sympathise, however, with the situation this company finds itself in and while we cannot support their principal requests, we endorse Double 4's fall-back position that the promoter should do what it can to help find an alternative site, of at least 7,547 square metres, within reasonable proximity of the Willesden Euroterminal site."*

44. The Promoter's agents have met with Double 4 Ltd to discuss their site requirements and have provided them with a schedule of availability for London industrial premises. Whilst no suitable site has been identified to date, this is a living document, to which new properties will be added and the Promoter will continue to liaise with Double 4 Ltd regarding potential sites as they arise.

## Chetwode, Twyford, Steeple Claydon and Calvert

45. In paragraph 110 of the report the Select Committee said:

*“Chetwode is a small village with a long history and the ancient parish church of St Mary and St Nicholas. The line of route will pass to the east of the village in a shallow curve, protected as far as possible by an artificial cutting and substantial earthworks. There will be two overbridges, one for a footpath and one for the road at School End, with a more substantial overbridge for the A421 about two km to the north. The construction and operation of the railway will have a significant impact on 25 dwellings in the village. The House of Commons Select Committee (Second Special Report, paragraph 88) considered a request for mitigation by way of a bored tunnel, but ruled against it on grounds of cost. We have reluctantly reached the same conclusion, but we urge that every effort should be made to make the mitigation of noise by earthworks as effective as possible.”*

46. The natural slopes of the cutting and railway-facing slopes of the earthwork bunds at Chetwode will be constructed as steeply as reasonably practicable, subject in particular to ensuring that the long term stability of the railway is maintained. As outlined in HS2 Information Paper E20, Control of Airborne Noise from Altered Roads and the Operational Railway, the nominated undertaker will continue to take all reasonable steps to design, construct, operate and maintain the operational railway so that the combined airborne noise from these sources, predicted in all reasonably foreseeable circumstances, does not exceed the lowest observed adverse effect levels (LOAEL) set out in Table 1 of Appendix B to the Information Paper.

## Dunsmore, The Lee, Ballinger Common

47. In paragraph 128 of the report the Select Committee said:

*“The hamlets to the east of the line may also find that their lanes (all of them narrow, and some ancient and sunken) will be used by drivers trying to avoid traffic congestion on the A413. This is something which the promoter should monitor closely, in conjunction with the County Council as highway authority.”*

48. The Promoter will seek approval of the relevant highway authority to implement appropriate monitoring across a screenline<sup>3</sup> of local roads in the areas of Dunsmore, the Lee and Ballinger Common from the A413, to determine any unintended diversion of traffic due the impacts of HS2 construction traffic using the A413. Monitoring will be reported and regularly reviewed at the relevant Local Traffic Liaison Group Meeting, established in accordance with the Code of Construction Practice and the Route-Wide Traffic Management Plan.

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<sup>3</sup> Across a screenline' means at a point on each road intersecting an imaginary line, so that total flows on all roads along the imaginary line can be assessed and changes in flow between each road evaluated.

## Colne Valley

49. In paragraph 150 of the report the Select Committee said:

*“We heard several petitions from those affected by the viaduct, including Miss Sally Cakebread, who lives with her widowed mother at Savay Farm, and Mr Thomas Bankes, the owner of Savay Lake. Savay Farm is an old and beautiful manor house of great historical and architectural interest, listed Grade I. It is the principal building in a small group of buildings in an attractive park-like setting at the edge of Savay Lake, about 350m from where the viaduct will be closest. Miss Cakebread and her mother believe that their home will be irreparably affected. No mitigation is possible other than sound barriers on the viaduct, which will be considered at the design stage. We hope that the Cakebreads will find that their worst fears are unfounded. We expect that Mr Bankes will find a satisfactory new parking space for anglers fishing in Savay Lake. There is an agreed plan, subject to planning permission. We agree that Mr Bankes, as owner, is the appropriate person to apply for permission, but with the promoter bearing the reasonable costs of the application.”*

50. The Promoter has agreed that it will pay for the reasonable costs of a planning application submitted by Mr Bankes for appropriate temporary access to equivalent replacement parking off Moorhall Road.

51. In paragraph 152 of the report the Select Committee said:

*“The Harrow Angling Society was concerned about the proposed wetlands and suggested that access should be improved by extrusions of made ground between gaps in the reed beds, a suggestion which we support. There were some petitions from the owners of boats moored in the Harefield Marina or on the Grand Union Canal, and from the owners of boating businesses in this area. They described the marina as an idyllic spot, and showed us photographs and videos (with a soundtrack of birdsong) in support of their case. They seem to take a rather apocalyptic view of HS2 as the end of the idyll. That is, we think, far too pessimistic. There will be noise and disruption, intermittently, during the construction phase of about three years. The towpath will be closed, but only for a short time. The canal itself will be closed only very briefly. For those boat owners whose licences permit them to sleep on board regularly (a limited number) the construction noise will entitle them to temporary rehousing, since effective noise insulation of small boats is almost impossible.”*

52. The Promoter has been in discussion with the Harrow Angling Society about their requirements and has already offered a number of assurances, including one to require the nominated undertaker to work with the Harrow Angling Society, as far as is reasonably practicable, on the details of the appropriate ecological mitigation plan for the reed beds within Harefield No. 2 Lake. The Promoter will also require the nominated undertaker to work with the Harrow Angling Society to ensure that the appropriate ecological mitigation in Harefield No. 2 Lake is provided in a way that so far as reasonably practicable minimises the effects on their activities.



53. In paragraph 153 of the report the Select Committee said:

*“The residents on the south edge of Harefield will be pleased to hear that the National Grid feeder station is most probably to be moved further south, away from their homes. The move is not certain because the new site may be liable to flooding, and further tests have to be made. This move will bring it closer to the Ryall family at Dews Farm and 2 Dews Cottages. They are very hard hit by the project and they should be shown every consideration.”*

54. The Promoter has recognised the need to keep the Ryall family advised of scheme developments in the vicinity of their properties, Dews Farm House and 2 Dews Cottage, including the potential relocation of the proposed Ickenham feeder station which could move its location closer to their cottage, so that appropriate and timely relocation can be arranged. For clarity, the Bill scheme will require the demolition of Dews Farm House but not 2 Dews Cottage; works by the cottage will only consist of the widening of Dews Lane on the opposite side to the cottage, though this will affect the ongoing viability of their associated workshop on that side of the road.

55. The Promoter has offered to purchase both the residential properties from the Ryall family under special circumstances. The basis of the acquisition would be on the same terms as if their properties had been safeguarded and acquired under the Express Purchase Scheme.

## **Ickenham**

56. In paragraph 162 of the report the Select Committee said:

*“Few other residents raised noise as a particular concern (the recurrent concerns were traffic congestion and air quality). We have not been told that any of them will be eligible for noise insulation. But if any are outside the endpoint of the RSZ and are entitled to noise insulation, they should in our view receive the same treatment as comparable residents in Old Oak Common (paragraph 170 below) and Camden (paragraphs 210–221 below).”*

57. There is only one property in Ickenham currently assessed as likely to qualify for noise insulation, and that is Oak Farm on Breakspear Road South. However, as the Select Committee acknowledge, the existing Rural Support Zone extends to the area, and it includes Oak Farm.

## **Euston Station**

58. In paragraph 178 of the report the Select Committee said:

*“We agree with these petitioners as to their main aspiration. The new station, which will eventually emerge after so much expenditure of public funds and so much misery endured by Camden residents, ought to be a world-class railway station, and the splitting of its design into two different operations seems unlikely to assist in the achievement of that objective. We earnestly urge the*

*Secretary of State to ensure that funding is provided for the second planning stage to proceed as soon as possible. But although HS2 Ltd and Network Rail are both in the public sector, they have different managements, different business plans, and different budgetary restraints. We do not feel able to direct, rather than to exhort. In particular, we think that the suggested amendment imposing a Grampian condition would be quite likely to cause further delay without achieving any positive result.”*

59. The Promoter shares the vision for a Euston Station that seamlessly integrates High Speed Rail, National Rail, London Underground, potential future Crossrail 2 requirements and local transport, and supports wider regeneration. The Promoter is working closely with HS2 Ltd, Network Rail (NR) and wider stakeholders, to ensure that we can achieve this vision.

60. Building on work already done, HS2 Ltd is managing the development of a single Euston Stations Masterplan that will provide a clear framework for the integration of all stations at Euston (i.e. HS2, National Rail, London Underground and potential future Crossrail 2). This work is being coordinated with the London Borough of Camden’s local area planning, and will progress throughout 2017, providing support and context to the planning application for the HS2 element of the station, and taking inputs from NR’s concurrent feasibility work.

61. Allocating funding to NR for its development work is part of the normal course of business for the Promoter. The Promoter is committed to doing so and has agreed a plan and put in place funding for NR to complete the feasibility stage of work for the conventional station. This will consider the strategic options for the potential future redevelopment and the business case for these, as well as how the HS2 station proposals support and safeguard any potential future development. Additional funding for subsequent stages of work will of course be considered once this initial feasibility programme has been completed and options identified.

## **Park Village East**

62. In paragraph 197 of the report the Select Committee said:

*“The proprietor of Park Village Studios has a different problem, as its successful business is likely to be significantly affected by traffic disruption at street level and by noise from work in the throat below. Mr Webb does not see relocation as a viable option. We believe that the best course is for him to work with the promoter to find ways of continuing to carry on the business where it is. Only if this proves unworkable should relocation, at least on a temporary basis, be considered. We are sympathetic to Mr Webb, but the promoter reasonably takes the view that no business should be regarded as totally incapable of relocation; and it also reasonably declines to take the unusual step of paying the petitioner’s legal costs of petitioning, while willing to meet other reasonable professional fees.”*

63. Since the Select Committee hearing, the Promoter has already begun further engagement work with Mr Webb, specifically on some of the enabling works that

are being carried out. Both the Promoter and Mr Webb have demonstrated a willingness to work as flexibly as possible with one another. In addition, Mr Webb has been provided with appropriate contact details for HS2 Ltd personnel as well as site contacts for works taking place. It is vital that as the project continues, all parties make use of the information and contact details provided so that communication can be timely and any issues resolved promptly. The Promoter has already begun work to carry out surveys of Park Village Studios so that a risk assessment can be developed. As per the assurances offered to Mr Webb, HS2 Ltd will reimburse the reasonable and properly incurred professional fees of Mr Webb's own specialist advisor. A formal mechanism for the reimbursement of these costs is currently being developed. The Promoter has provided additional assurances that set out the process by which temporary relocation would be considered should other solutions prove unworkable.

## **Old Oak Common**

64. In paragraphs 169-170 of the report the Select Committee said:

*“Despite these assurances, ten years of major works will cause real hardship to many residents, who will suffer from noise, air pollution, traffic congestion, and general disruption of their lives. Those most affected will be the residents of Wells House Road, Midland Terrace, Shaftesbury Gardens, and Stephenson Street. The residents of the most easterly part of Wells House Road (that is, those whose houses also have a frontage onto Old Oak Common Lane) are subject to safeguarding, because the work on the Lane may encroach on their gardens. They will therefore be eligible for the Express Purchase Scheme, whether or not they are owner-occupiers (this appeared to come as a surprise to Ms Amanda Jesson, even though she has for a long time devoted much of her time and energy to representing the interests of the residents in Wells House Road).*

*In our view all the owner-occupiers in the streets mentioned above should, if they are not eligible for the Express Purchase Scheme, and whether or not they will be eligible for noise insulation, be treated as if eligible for the Voluntary Purchase Scheme, including the Cash Option. It would be disproportionate as between rural residents and urban residents, in our view, for these owner-occupiers not to participate in a scheme available to many owner-occupiers in the RSZ who will not be as severely affected, either during construction or when the high-speed railway is in service. We would not extend this scheme to owner-occupiers in Goodhall Street, or to residents of the new residential block known as the Collective, since they will not be as severely affected.”*

65. The Promoter's response on this issue is set out in paragraphs 73 to 78 below.

## **Park Village East**

66. In paragraph 196 of the report the Select Committee said:

*“For all these reasons the owner-occupiers of Park Village East are among*

*those who will be most severely affected by the works, and to whom we recommend that the Secretary of State should provide further compensation going beyond what is at present proposed.”*

67. The Promoter’s response on this issue is set out in paragraphs 73 to 78 below.

### ***Mornington Terrace, Mornington Place, Mornington Crescent***

68. In paragraph 203 of the report the Select Committee said:

*“We heard a large number of petitions from residents, with Mr David Auger taking the lead on behalf of the Camden Cutting Group, supported by many other smaller groups and by individual petitioners. There was some useful evidence about sound insulation (see paragraph 371 below). Almost all the houses in Mornington Terrace, and several in Mornington Street, Mornington Place and the exposed south-west part of Mornington Crescent, will suffer as much disturbance by noise as residents in Park Village East, although without the prolonged deprivation of vehicular access that will occur there. On the other hand, for some the noise may be even worse, as they will be closer to the demolition of the carriage sheds and the reconstruction of the two southern bridges. We consider that this group of residents should also receive further compensation commensurate with that recommended for Park Village East.”*

69. The Promoter’s response on this issue is set out in paragraphs 73 to 78 below.

### ***The Amptill Square Estate***

70. In paragraph 207 of the report the Select Committee said:

*“We consider that the tenants and leaseholders in the two high-rise blocks known as Dalehead and Gillfoot are likely to suffer exceptional disruption over a long period, whatever fine-tuning there may yet be in relation to the alignment and height of the Hampstead Road bridge. We consider that they, and the tenants and leaseholders in Cartmel on the other side, should receive some significant monetary compensation for disruption which cannot, as we see it, be adequately mitigated. It is most unsatisfactory that the exact configuration of these important works is still uncertain at this very late stage.”*

71. The Promoter’s response on this issue is set out in paragraphs 73 to 78 below.

### ***Recommendations on improved compensation***

72. In paragraphs 215-221 of the report the Select Committee said:

*“We make a strong recommendation, therefore, that those households in Camden, and any in Hillingdon and Birmingham, that are so threatened by construction noise as to be entitled to noise insulation, should be treated in the same way as if they were within 120m of the line of route in an area where the Rural Support Zone (RSZ) applies. Eligibility to noise insulation is an objective*

*test, involving independent experts. That would in our view be a suitable equivalent to the 240m “ribbon” of the RSZ, which would not be appropriate in a densely developed urban area with very different degrees of exposure to noise and general disruption during the construction phase. At Old Oak Common we have specified streets, in view of the wholly exceptional disruption in that area.*

*The consequence would be that owner-occupiers in these areas would be entitled to participate in the Voluntary Purchase Scheme, including its Cash Option (which would, we think, for most owner-occupiers be the preferred option). We do not suggest that the cash limits should be raised because of high unblighted market values in parts of Camden. The same option would be open to the owners of sought-after villas in Park Village East and to right-to-buy owners on the Regent’s Park Estate and the Amptill Square Estate. For residential tenants who do not qualify as owner-occupiers we suggest the right to payment of a lump sum well in excess of the £5,800 payable to council tenants who have to be rehoused because their flats are to be demolished. Those tenants will have to move, but they will be moving away from at least the worst of the noise and disruption. £10,000 would in our view be an appropriate sum for the most threatened council and private residential tenants who remain behind.*

*We cannot make anything like an accurate estimate of the cost of this proposal, but we thought it right to make a rough calculation of its likely order of magnitude. Four areas need to be considered: Camden, Old Oak Common, Ickenham and Birmingham.*

- (1) At Camden about 1,300 dwellings will be eligible for noise insulation. Some of these are social housing, but some former social housing is owner-occupied after exercise of the right to buy. Some houses, or parts of houses, are privately rented. We have assumed 1,000 owner-occupiers and 300 council or private tenants.*
- (2) At Old Oak Common we estimate that there are about 20 dwellings in Stephenson Street, about 60 in Shaftesbury Gardens and Midland Terrace, and about 110 in Wells House Road (of which about 20 are already within the Express Purchase Scheme). We have assumed 150 owner-occupiers and 20 tenants.*
- (3) We are not aware that there will be any noise insulation at Ickenham but we have assumed 10 owner-occupiers.*
- (4) Similarly we are not aware that there will be any noise insulation at Birmingham but we have assumed 40 owner-occupiers and 30 tenants.*

*The assumed totals are therefore 1,200 owner-occupiers and 350 tenants of dwellings of varying size, quality and market value.*

*The Voluntary Purchase Scheme is significantly less attractive than the Express Purchase Scheme and we would expect that as many as 90 per cent of eligible owner-occupiers would opt for the cash option, which is capped at*

£100,000. If the unblighted value of the average house or flat is assumed to be (A) £1m (B)£1.5m (C) £2m the immediate cost to the promoter (balanced by the acquisition of a bank of residential property which could be expected to increase in value over the long term) would be as follows (the figures at (2) are likely to be rather lower since even in London not every dwelling has a market value of £1m or more).

Table 3: Cost to the promoter

		(A)£m	(B)£m	(C)£m
(1)	120 dwellings purchased	120.0	180.0	240.0
(2)	1080 cash option payouts	108.0	108.0	108.0
(3)	350 payments to tenants	3.5	3.5	3.5
<b>Total</b>		<b>231.5</b>	<b>291.5</b>	<b>351.5</b>

*These are substantial amounts but the extended compensation would be bringing much needed relief to over 1,500 householders and their families. The figures have to be considered in the light of other known payments made or to be made by the promoter, for instance £26.5m for the Hillingdon Outdoor Activities Centre and £3.4m for a single house in Potter Row near Great Missenden. If the cost is regarded as prohibitive, a cash option only, capped at £50,000 for owner-occupiers, would cost (on the above assumptions) £63.5m.*

*Since the Voluntary Purchase Scheme is a non-statutory scheme, there is no mention of it in the bill. In theory the principal purpose of our hearing petitions is to consider amendments to the bill, although in practice much is achieved, by assurances and concessions, without the need for any formal amendment. We are in doubt as to whether we have power to direct the Secretary of State to make this major change to the Voluntary Payment Scheme, and even if we clearly had the power we would not exercise it. There is too much uncertainty about the likely cost to the public funds, and there may be adjustments and refinements that can usefully be made to our proposal. But we do make a strong recommendation that a substantial concession on these lines should be made to those urban householders who will be most severely affected, and who feel, with some justification, that they are not receiving fair treatment.”*

73. The Government accepts the Committee’s strong recommendation that, in the case of those households in Camden and Old Oak Common, those households (if any) in Hillingdon and Birmingham and those households in close proximity to a construction compound or spoil heap that are subject to severe and prolonged noise and disturbance resulting from the construction of HS2, compensation should be offered in addition to any statutory remedy for which they may be eligible.

74. The Government will develop and bring into effect in a timely way a scheme of compensation for that purpose. The purpose of the scheme will be to provide a fair and proportionate remedy for the effects of severe and prolonged noise and disturbance resulting from the construction of HS2. Such a scheme will take into account the mitigation provided by noise insulation measures and will reflect the

difference between construction disturbance in urban areas and permanent operational impacts in rural areas.

75. The scheme will be founded upon a clear and objective eligibility criterion or criteria tailored to its intended purpose. The Government will ensure that the scheme is fair, reasonable and proportionate, in the spirit of the strong recommendation of the Select Committee.

76. The Government confirms now that one component of the scheme will be that, in the case of any owner-occupied residential property in respect of which the occupier or occupiers are or become eligible for temporary rehousing for a period or periods in excess of three months, the owner-occupier(s) will have the option of requiring the Secretary of State to purchase the property for its full un-blighted value on the same terms as apply to residential properties purchased under the Voluntary Purchase and Need to Sell Schemes.

77. We will also develop appropriate arrangements for residential tenants in properties that are subject to severe and prolonged noise and disturbance resulting from the construction of HS2.

78. While the Government respects the Select Committee's recommendation in this area, it maintains its view that, even in the absence of an urban compensation scheme as discussed above, the Government's property compensation schemes are compatible with Article 14 of the European Convention on Human Rights.

## *The Need to Sell Scheme*

79. In paragraphs 246-247 of the report the Select Committee said:

*“Nevertheless the Secretary of State has recently announced a further consultation and review of the scheme, in which Ms Wharf is to participate. That is good news. Subject to what may come out of the review, we accept that some of the grievances which petitioners have in the past expressed about the Need to Sell Scheme were well-founded. We would certainly not go as far as many petitioners asked, that is to recast it as a “wish to sell” scheme. That would be disproportionate. But we do consider that the “compelling reason to sell” condition should be clarified, and that the clarification should be given wide publicity (and firmly impressed on the promoter’s own staff who may be asked about it). It should be made clear that for the applicant to be financially embarrassed may be a sufficient, but is definitely not a necessary, condition for a successful application. It should be made clear that a compelling reason may be a combination of factors which are together compelling (such as age, moderate disability, impending retirement, and adult children leaving home). It should also be made clear that prolonged noise and disruption from construction work, which the applicant finds intolerable, may itself be a compelling reason for sale. We understood Mr Mould QC to accept that.*

*As to the grievance expressed by many petitioners, that these applications are usually decided by a civil servant acting with the authority of the Secretary of*

*State, and that there is no right of appeal, we think that the existence of the independent panel which makes a recommendation does provide a genuinely independent element. We are reluctant to introduce more complication into what is already a fairly complicated scheme. But the publication of decisions (with appropriate redactions) would, together with a fuller (though not exhaustive) list of matters that may amount to a “compelling reason” for sale, would increase transparency and increase confidence in the scheme. We urge the Secretary of State to adopt this approach.”*

80. The Government welcomes the recommendations of the Committee on the Need to Sell (NTS) discretionary compensation scheme. From today, we are going to publish all relevant examples of ‘compelling reasons to sell’ where an application for NTS is accepted. This will be done on a quarterly basis and sufficiently redacted to protect the confidentiality of applications.

81. As noted by the Committee, the NTS scheme and all other discretionary compensation and assistance schemes are currently the subject of a Government consultation. The Government will respond in full to the Committee's recommendations on compelling reasons to sell as part of its consultation response.

### *Uniformity and special cases*

82. In paragraph 271 of the report the Select Committee said:

*“There are two ways in which this problem might be addressed. Where a house is in close proximity to a construction compound or spoil heap (some of which are to be as much as 5m high) the owner should have the same option as we recommend for the vulnerable properties in Camden which do not at present have the benefit of the Voluntary Purchase Scheme (paragraphs 210–21 above). But there will be a few cases in which more generous treatment would be appropriate. One example is a married couple, Mr and Mrs Raitt, who live with their children at Lower Thorpe, near Thorpe Mandeville. Lower Thorpe is a tiny hamlet and two of its houses are to be demolished to make way for a viaduct. Every other house in the hamlet is already empty. In our view this total destruction of a small community calls for payment of unblighted market value, removal costs and legal fees, including stamp duty on the new home (see paragraphs 75–76 above).”*

83. The Promoter's response on this issue is set out in paragraphs 73 to 78 above.

### *Measuring loss of biodiversity*

84. In paragraphs 291-292 of the report the Select Committee said:

*“The rationale for excluding SSSIs and ancient woodland is that they are irreplaceable, and therefore, it is said, incapable of having a value set on them for the purposes of any offsetting metric. That may be a sensible general rule for local planning authorities concerned with relatively small developments.*



*But we are not convinced, at this very early stage in working out a metric for much larger, linear projects, that the same general rule should be applied indiscriminately, especially to ancient woodlands.*

*Not all ancient woodlands are of the same quality, as the report recognises. The glossary at pages 54–55 distinguishes between ASNW (ancient semi-natural woodland) and PAWS (plantation on ancient woodland sites, which “were planted with (often non-native) broadleaved trees and conifers after the First and Second World Wars”). We can see no reason why offsetting biodiversity work in a very large project such as HS2 should not include the improvement of PAWS areas by the replacement of conifers by more appropriate native broadleaved species. Similarly, although SSSIs are not graded in the same way as listed buildings, some are of greater scientific interest than others, and many could be enhanced by improvements in access or surroundings, or by controlling invasion by extraneous species.”*

85. The Promoter notes the Select Committee’s judgement but, notwithstanding this, would like to clarify that, in line with Natural England’s review, it has agreed to remove ancient woodland from the metric and account for losses (and the compensatory habitat associated with it) separately through an Ancient Woodland Strategy. The Promoter will work further with the Department for Environment, Food and Rural Affairs to consider compensation for irreplaceable habitats such as ancient woodland through their 25-year plan for the environment. The no net loss calculation is currently being updated to take account of agreed metric changes from the review and will be republished in advance of Royal Assent.

86. In accordance with the standing advice of Natural England and the Forestry Commission on ancient woodland and veteran trees, the Promoter agrees that the restoration of PAWS can form a valuable compensation measure in the instance where there is unavoidable loss of ancient woodland. Following the publishing of Natural England’s report in November 2016, the Promoter committed £5m to a woodland fund, to provide additional compensation for ancient woodland loss beyond those measures listed in the Environmental Statement. The Promoter is currently establishing the scope of the fund, of which restoration of PAWS is likely to be a key element.

### **Chilterns Area of Outstanding Natural Beauty (AONB)**

87. In paragraph 317 of the report the Select Committee said:

*“On considering the matter as a whole, we take the view that the existing plans for the project, including the extended tunnel and the saving of Mantle’s Wood, show that the promoter has carried out its statutory duty under section 85 of the 2000 Act, and has done so by a generous margin. It is however most important that the execution of the project should also be carried out in compliance with that duty.”*

88. The Promoter welcomes the Select Committee’s view that the existing plans for the project show that the Promoter has met its statutory duty under section 85 of the Countryside and Rights of Way Act 2000, and by a generous margin. HS2 Ltd is

committed to continuing to meet its duty under the 2000 Act as the project moves into the construction phase.

89. In paragraphs 127 and 318 of the report the Select Committee said:

*“Dunsmore is a very pleasant hilltop village to the south of Wendover, some way to the west of the line of route. The Lee, Ballinger Common and other scattered hamlets are on rising ground to the south-east of Wendover, and to the east of the line of route. Many residents in these places will see high-speed trains passing over the Small Dean viaduct or the Wendover viaduct, or both, and some will hear the trains, although at a level well below LOAEL in most cases. The strong feelings of many of these residents about the new viaducts underline the importance of their being designed in an aesthetically pleasing fashion and constructed to the highest possible standards.*

*We place particular emphasis on the design of the Wendover Dean and Small Dean viaducts. The prospect of HS2 trains running at speed over these viaducts is most unwelcome to numerous petitioners, including many of the residents of Dunsmore, The Lee, and other settlements from which one or both of the viaducts will be clearly visible. Their design must be regarded as a matter of high importance. A well-designed viaduct (such as the famous viaduct in the Ribble valley) can, at least with the passage of the years, come to be regarded as an enhancement to the view. That should be the promoter’s aim for these viaducts.”*

90. Viaducts will be designed in accordance with HS2 Information Paper D1, Design Policy, which states that ‘the design of all visible elements of the built and landscaped environment in both rural and urban areas are sympathetic to their local context, environment and social setting’. In addition, the Information Paper identifies Wendover Viaduct and Small Dean Viaduct as key design elements on which the local community will be engaged as the design develops. HS2 Ltd has established a Review Group for the Chilterns AONB and the membership of this group includes a number of statutory stakeholders with an interest in the protected landscape. The project is committed to continue working collaboratively with this group in order to support the important role it has, and deliver on the assurances already provided.

### *Public rights of way (including equestrian concerns)*

91. In paragraph 321 of the report the Select Committee said:

*“Horses, even horses which are normally calm and dependable, are easily startled. There are obvious difficulties about their having to co-exist with HS2. The problem is particularly acute when bridleways run close to, or have to cross, the new line. The promoter has undertaken to follow British Horse Society guidelines for the height and strength of side barriers, whether the crossing is by a “green bridge” or a more conventional, narrower structure. We urge a precautionary approach to minimise the risk of accidents causing fatalities or serious injuries.”*

92. The likelihood of a horse being startled by train noise is relatively low because their hearing is a good deal less sensitive than human hearing in the relevant frequency range. However the design and construction of side barriers where bridleways run in close proximity to the railway would be carried out to the appropriate standards, which adopt a precautionary approach to ensure the safety of horses and their riders.

### *Bird strike and bat strike*

93. In paragraph 322 of the report the Select Committee said:

*“The speed at which HS2 trains will travel means that it will from time to time hit and kill birds and bats flying low over the line. This is inevitable, but every reasonable care must be taken to keep strikes to a minimum. Large birds are more at risk than small ones. In the Colne Valley geese and cormorants will be particularly at risk, and barn owls will be particularly at risk in rural areas further north.”*

94. The Promoter recognises the potential of Phase One of HS2 to have impacts on populations of bats and in particular, some bird species. With regards to geese and cormorants in the Colne Valley, the Environmental Statement did not identify any important flight lines for such species, however it acknowledges that a small risk of infrequent collision will remain. The Colne Valley Viaduct, as a key design element, will complement local aspirations and contribute to the natural and built environment where possible. Regarding Barn Owls, the Promoter will reconvene the Barn Owl action group in January 2017 to discuss how to take forward results from an independent report into the dispersal of this species. This will inform mitigation measures both near the line to prevent collisions and in the wider landscape to enhance existing populations.

95. In paragraph 325 of the report the Select Committee said:

*“The House of Commons Select Committee (Second Special Report, paragraph 304) referred to the proposed establishment of the Ecology Review Group, whose members will include Natural England, local authorities, conservation NGOs and other experts. Now that Royal Assent is approaching, and contractors are about to be appointed, it should in our view be set up in the near future. It will inevitably take some time for the members to be appointed and its first meeting arranged.”*

96. Following its response to the Environmental Audit Committee to consider having an independent body to oversee monitoring of created habitats, the Promoter has now established the Ecology Review Group. The Group held its inaugural meeting in January 2017. Going forward, it will meet up to twice a year to discuss relevant issues. As part of its remit, the Group will also have a role in identifying reasonable proposals for specific locations for off-site habitat creation, either as an alternative means of providing habitat to those areas identified in the Bill or as a means of providing additional mitigation to address any no net loss deficit.

## Urban environments: green spaces

97. In paragraphs 326-327 of the report the Select Committee said:

*“The loss of trees and green spaces in St James Gardens, on the Regent’s Park Estate and elsewhere in Camden will be a serious loss to the residents of this densely populated district. For many of them, Regent’s Park, although an outstanding resource, is not easily accessible. This was made clear to us by many petitioners and witnesses, including the Reverend Anne Stevens, the rector of St Pancras Parish Church. It is most important that the promoter ensures that its contractors plant the greatest possible number of trees and shrubs, of suitable species and at suitable locations. It is also most important to plant them as soon as possible, and for them to be watered and protected as they grow, perhaps with the co-operation of local residents.*

*The same considerations apply to Birmingham and its environs, Ickenham, Old Oak Common and the urban locations where vent shafts will be constructed.”*

98. As described in HS2 Information Paper D1, Design Policy, the Promoter and nominated undertaker will seek to ensure that the design of all visible elements of the built and landscaped environment in both rural and urban areas are sympathetic to their local context, environment and social setting. This will be achieved through the development of a coordinated design that will consider the specification, location and maintenance of trees and other vegetation. In addition to design commitments, qualifying authorities will have a range of controls under Schedule 17 to the Bill, including in relation to the design of landscaping earthworks, site restoration and mitigation schemes which may include public open space.

99. With regard to planting and maintenance of trees, paragraph 12.3.1 of the draft Code of Construction Practice states that planting and other landscape measures will be implemented as early as is reasonably practicable where there is no conflict with construction activities or other requirements of the scheme. Planting and landscaped areas will be maintained in accordance with the measures set out in HS2 Information Paper E16, Maintenance of Landscaped Areas. The Information Paper states that during construction and for a period of time after, any new planting, grassland and habitat creation will be maintained by the nominated undertaker to ensure they become established and are properly maintained. This period of initial maintenance will vary depending on the habitat or feature and the complexity and objectives for the landscape type. Tree planting, for the purpose of screening, will likely require up to 5 years maintenance. After an initial period of maintenance, the nominated undertaker will seek to return the majority of land to previous landowners or other interested parties (such as local wildlife trusts, woodland trust, local authorities), where agreement can be reached that will ensure the continued objectives of the landscaping are maintained into the future.

## Urban environments: hedgehogs in Regent's Park

100. In paragraph 331 of the report the Select Committee said:

*"We understand the Society's concern but we are not convinced that it justifies what would be a major disruption to the promoter's plans. Seven other sites have been assessed as possible locations for the lorry holding park, and none is as satisfactory. The Society and the Royal Parks authorities will continue to monitor the hedgehog population in all four areas where they are concentrated. If the hedgehogs near the car park do not learn to use the tunnel, and seem to be in distress, thought can be given to other measures to assist them. We were told that the lorry holding area will continue to be largely empty and quiet at night, and although it must be secure, that requirement need not preclude other means of allowing these small animals to traverse it."*

101. The Promoter is committed to ensuring that the use of the car park will not result in a significant adverse effect on the hedgehog population and that the habitat is restored in accordance with the wishes of the Royal Parks and the Royal Zoological Society. As the Select Committee say, the Royal Parks and the Society will continue to monitor the hedgehog population in all four areas where they are concentrated and if the hedgehogs near the car park do not learn to use the tunnel, and seem to be in distress, thought can be given to other measures to assist them. For its part, the Promoter has earmarked a budget of up to £25,000 to provide reasonable mitigation measures for the hedgehogs, including supporting the scrub habitat in the area and monitoring, working collaboratively, in a two-way process, with the Zoo.

## Public engagement

102. In paragraphs 336-338 of the report the Select Committee said:

*"Our most serious concern is at the promoter's practice of sending lengthy letters to petitioners at the last moment before the hearing of their petitions, sometimes after weeks or even months of silence, suggesting that the petitioner's concerns had been, or could be, met and that there was no need to proceed with the petition. Such a letter, if sent about a fortnight before the hearing, would be an acceptable and indeed helpful way of proceeding. But it is unhelpful and unfair to send a letter at such a short interval before the hearing that the petitioner may have no time to take advice before the hearing (or, in the case of a parish council, to consider it collectively). Many petitioners find the hearing process stressful enough without this sort of last-minute pressure."*

*In one case we were credibly informed that a petitioner was told by telephone, shortly before the hearing of his petition, that an offer which the promoter had made to him would be withdrawn if he proceeded with his petition. This information reached us only after the hearing. It was, we hope, an isolated*

*case of an over-zealous junior employee acting without instructions, since a threat of that sort may amount to a breach of parliamentary privilege. With most of the promoter's letters sent shortly before petition hearings it was not the tone, but the timing, of the letters that was unacceptable.*

*Under the present arrangements for hybrid bills, the programme for the hearing of petitions is fixed only a short time in advance, and even then is liable to be changed at the last minute. This is inconvenient for everyone: for petitioners and their advisers, for the promoter and its advisers, and for the members of the committee and our clerk. Some radical changes may result from the current review of hybrid bill procedure. But apart from more radical changes, there is a clear need for the programme for the hearing of petitions to be fixed with reasonable certainty, and for papers to be lodged for the hearings, much earlier than happens at present. The present arrangements explain, but do not excuse, the promoter's practice of last-minute letters."*

103. The Promoter has responded to Parliament's consultation on the hybrid bill process. The Promoter agrees that some certainty about the timing and duration of hearings is helpful, but the timely completion of all petitioner hearings requires some flexibility in the Select Committee's programme. It is the Promoter's experience over multiple hybrid bills, but particularly this one, that an imminent hearing date is an important factor in some petitioners entering discussions about their issues and providing the information needed to allow the Promoter to make an offer of assurances.

104. In paragraph 345 of the report the Select Committee said:

*"An example of the first type of what Mr Mould QC referred to as "micromanagement" was the covered walkway which the promoter has agreed to provide, at the request of the Drummond Street traders, so as to maintain a direct link between the functioning part of Euston station and the shops and restaurants in the Drummond Street area. It was not reasonable, months before the appointment of contractors, for their spokesman to seek to prescribe a detailed specification of the design, construction and lighting of the walkway (which may have to be moved from time to time as work progresses), and still less to prescribe the advertisements to be displayed in connection with it."*

105. The Promoter has engaged with the Drummond Street traders to better understand the concerns raised in their petitions. As a result, the Promoter has given an assurance to maintain pedestrian connectivity between Drummond Street and Euston Station, throughout the construction works for Phase One of HS2. Wherever reasonably practicable, the connectivity will be direct. Subject to safety and delivery requirements of the scheme, this route may alter from time to time and sections may be covered.

106. In paragraph 348 of the report the Select Committee said:

*"Engagement is, as already noted, a two-way process. It is not in the interests of those affected by the project to ignore lines of communication and means of redress provided by the promoter, and to expect their concerns to be met by*

others (particularly local authorities, many of which referred to the heavy extra burden of work put on them by complaints and inquiries). As the project moves forward it is essential that those affected should know of, and make use of, the 24-hour hotline and the service offered by the Construction Commissioner. The Commissioner is an independent and expert resource for the quick and easy resolution of complaints and small claims.”

107. As it moves forward, the project will continue to promote the 24 hour helpdesk as the primary channel for all enquiries about HS2, and resource this service accordingly in response to demand. The project will also continue to communicate about the role of the independent Construction Commissioner and the services offered by that position.

### *The promoter’s proposed limits, and mapping of noise contours*

108. In paragraphs 364-366 of the report the Select Committee said:

*“For daytime operational noise, the promoter proposes to set limits by reference to the equivalent continuous sound level, that is LA eqT, where T is the period of 16 hours from 0700 hours to 2300 hours. For night-time reference will be made both to LA eqT (with T as 8 hours) and to LA max. That is because occasions of maximum noise level are particularly important during the hours when most people are asleep.*

*The proposed limits are as follows (night time noise having to meet two separate tests):*

*Table 8: Noise limits*

	<b>LOAEL</b>	<b>SOAEL</b>
<i>Day (0700–2300)</i>	<i>50 LA eq 16 hours</i>	<i>65 LA eq 16 hours</i>
<i>Night (2300–0700)</i>	<i>40 LA eq 8 hours</i>	<i>55 LA eq 8 hours</i>
<i>and</i>	<i>60 LA max</i>	<i>80 or 85 LA max</i>

*Source: Information provided by the promoter*

*The LA max values are for measurements at the façade of a dwelling house, which are usually rather higher than when measured in a free field. The alternative values for SOAEL depend on the frequency of night-time train movements.*

*We regard these limits as reasonable. The 60 LA max (measured at facade) figure is broadly comparable to the WHO figure of 45 for night-time noise when measured inside a dwelling house, with the bedroom window partly open. Mr Thornley-Taylor explained that the WHO approach uses average values arrived at by a different technique, a matter that must be borne in mind in making comparisons.”*

109. The Promoter notes the use of the term ‘limit’ by the Select Committee in the context of operational noise. The Promoter considers it appropriate to clarify that in expert evidence given by Mr Thornely-Taylor, and in its published noise and vibration Information Papers<sup>4</sup>, the values assigned to these parameters are the levels above which adverse effects are predicted to be observable. The Noise Policy Statement for England (DEFRA 2010) defines LOAEL (Lowest Observed Adverse Effect Level) and SOAEL (Significant Observed Adverse Effect Level) in these terms.

## Operational noise

110. In paragraph 371 of the report the Select Committee said:

*“When we heard the petition of Mr Auger on 18 October there was some interesting evidence from Mr Chandler, a specialist conservation architect, who has devised a form of external double glazing that can be fitted temporarily during the construction phase, and removed when it is no longer needed. We were shown slides of a demonstration of this type of double glazing. Fitting is apparently simple and inexpensive, and the London Borough of Camden has informally expressed approval. The petitioner also spoke about blackout blinds and ventilation systems. These are initiatives that should be taken forward.”*

111. The Promoter is exploring these initiatives to see whether they are feasible and can be reasonably taken forward.

## Tax issues

112. In paragraphs 380-381 of the report the Select Committee said:

*“The House of Commons Select Committee expressed the view (Second Special Report for the session 2015–16, paragraph 364) that in view of the likely intense competition for replacement land, there should be greater certainty and clarity about the extension of the rollover period. We were told at the NFU hearing on 5 July 2016 that there had recently been a meeting with officials of HM Treasury and HMRC, but that the outcome was not yet known. However, Mr Mould QC, for the promoter, told us that any CGT payable in these circumstances would be allowed as an element of the compensation payable.*

*A similar point can arise with inheritance tax (“IHT”). Most farming assets qualify for either business relief or agricultural relief, which often produces complete exemption from IHT. But on a farmer’s death the proceeds of land that had been compulsorily acquired would, unless already invested in*

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<sup>4</sup> HS2 Information Paper E20, Control of Airborne Noise from Altered Roads and the Operational Railway, HS2 Information Paper E21, Control of Ground-Borne Noise and Vibration from the Operation of Temporary and Permanent Railways, HS2 Information Paper E22, Control of Noise from the Operation of Stationary Systems, and HS2 Information Paper E23, Control of Construction Noise and Vibration



*replacement assets, be subject to IHT. Mr Mould told us that the IHT payable in those circumstances would also be allowed as an element of the compensation.”*

113. As the Select Committee reports, a liability to tax that has arisen as a result of compulsory acquisition would be recoverable in principle as an element of disturbance compensation.

### **Compulsory acquisition for regeneration or relocation**

114. In paragraph 393 of the report the Select Committee said:

*“The Secretary of State has indicated that the power would be regarded as a power to be used only as a last resort, if commercial negotiations failed to reach a satisfactory conclusion. But in our opinion it is not sound law-making to create wide powers permitting the expropriation of private property on the strength of ministerial statements, not embodied in statute, that the powers would be used only as a last resort. We have amended Clause 48 by deleting subsections (1) to (3), renumbering subsections (4) to (11).”*

115. The Promoter will not seek to reintroduce the provisions of clause 48(1)-(3) relating to regeneration powers that were deleted by the Select Committee. The onus must therefore lie with local authorities to ensure that opportunities for regeneration arising from Phase One of HS2 are not missed due to any failure to use their own similar powers under the Town and Country Planning Act 1990 or to work collaboratively across boundaries. The Homes and Community Agency does have a similar power granted under the Housing and Regeneration Act 2008, as contended by the London Borough of Camden, but its functions do not extend to London and its focus is primarily housing meaning that this power does not fully replicate that previously contained in clause 48(1)-(3).

### **Movement of materials by rail**

116. In paragraphs 408 and 411 of the report the Select Committee said:

*“At the hearing on 12 September, Mr Smart said that HS2 now had a guaranteed baseline for moving materials by rail: 28 per cent of excavated spoil and 17 per cent of imported construction materials. It was work in progress, he said, to improve on those figures. He told us that almost all the projects cited as comparators had been carried out in much less crowded surroundings, except for much of Crossrail, and that almost all of the Crossrail spoil (except at Canary Wharf) had initially been moved by road, although it ended up being shipped out along the Thames estuary in barges; and all materials had to be brought in by road. All spoil from bored tunnels (estimated as of the order of 4m tonnes) would be moved by rail, and HS2 would undertake as much on-site concrete batching as possible. Any ready-mixed concrete transported by road would be in lorries with a minimum capacity of 8 cubic metres, to reduce the number of journeys as much as possible. HS2 had engaged, and was actively engaging, with the rail freight industry.”*

*We are very strongly of the opinion that as much material as possible should be moved by rail, so as to reduce road traffic congestion and air pollution. However, we are convinced by the evidence that this aim will be significantly more difficult to achieve at Euston, as compared with most of the other projects referred to by Mr Dyer and Lord Berkeley. We are satisfied that HS2 is taking this responsibility seriously, and we are hopeful that significant progress will be made as the time comes for contractors to be appointed and become involved in the detailed planning. In the meantime we see no useful purpose to be served by attempting to set fixed targets. It would be little more than plucking aspirational figures out of the air.”*

117. The Promoter reiterates its overarching commitment to continue to seek to maximise, as far as reasonably practicable, the amount of material that can be moved by rail, and the underlying commitments it has given the London Borough of Camden. Maximising the amount of material that can be moved by rail remains a work in progress as the design develops and contractors come on board, but delivering the assurances given to the London Borough of Camden is currently predicted to result in 28% of excavated material and 17% of imported construction materials in the Euston area being moved by rail.

### *The Secretary of State’s policy*

118. In paragraphs 419-421 of the report the Select Committee said:

*“The first point is that the nervous stress felt by many people whose land is to be taken is increased by uncertainty. That is particularly true for farmers, who need (at a time when agriculture is facing difficult conditions) to do their best to see some way into the future in planning for a viable business. Now that Royal Assent is likely to end part of the uncertainty, and more detailed design work commences, the promoter should do all it can to engage with those who are still in a state of uncertainty about how their land is to be taken.*

*Second, there will be land taken for temporary use (especially in the vicinity of the Birmingham interchange station) for which the HS2 project will itself create development opportunities. This will be the land which (if taken permanently under the ordinary compulsory purchase regime) is least likely to be offered back to the original owners. Both the promoter and organisations such as the NFU and the CLA should do what they can to bring this home to those who may be affected. It will provide an incentive, in some cases, for negotiating an agreement operating outside the statutory powers. But because of the economic anomaly mentioned above, the negotiation may involve some hard bargaining. The acquiring authority may be expected to press for terms which restrict the effect of the anomaly.*

*Third (and as wider expression of the second point), where land is acquired for temporary use but under the normal compulsory purchase regime, its eventual disposal by the nominated undertaker will be under the Crichel Down rules. We strongly urge the Secretary of State not to add further exceptions to what is already quite a long list of cases (in paragraph 15 of the annex to the 2015 Guidance) in which the original owner will not be given first refusal to*

*reacquire the land at its then market value. Apart from other more principled reasons, which we need not repeat, it would be odd if one Department of State had its own version of the rules.”*

119. Once the Bill receives Royal Assent, the Promoter will undertake a continuing communications exercise with the owners and occupiers of property that is expected to be subject to compulsory acquisition for Phase One of HS2. As a minimum, this communications exercise<sup>5</sup> will include a letter sent to property owners and occupiers, at a stage when the scheme has reached an appropriate level of detailed design, giving them:

- an indication of whether the property which they own or occupy is likely to be required, and if part only of the property is likely to be required, which part; and
- the best estimate available of the date on which such property is likely to be required.

120. HS2 Ltd have also published a Guide for Farmers and Growers<sup>6</sup> setting out their proposed approach to handling agricultural property matters, providing a single source of information for all those affected. There will eventually be a bespoke guide for each affected farmer. The guide comprises three parts. Part one contains general policies and guidance on key issues, including land acquisition, land access, construction, land restoration and compensation. In Part two, further explanatory notes on land acquisition and temporary occupation are included. Lastly, Part three is an example of the content that will be tailored to an individual farmer. The principles set out in the guide will be adhered to during the detailed design and construction of the railway. The guidance may be subject to revision over time, as practices are improved or modified.

121. The Promoter has clarified to the CLA and the NFU that agricultural land earmarked for compulsory acquisition for construction purposes only, where it will remain in long term agricultural use, it will not be the subject of an economic assessment in determining whether to occupy land temporarily as an alternative to compulsory acquisition, providing there are no special circumstances applying, such as occupation by the Promoter for long periods over 5 years, demolition of existing buildings or where land has development or mineral extraction potential.

122. On the Crichel Down Rules, the additional exemptions set out in HS2 Information Paper C6, Disposal of Surplus Land, have been developed to reflect the circumstances of the HS2 Bill. The Promoter is prepared to reconsider the additional exceptions set out in the Information Paper in the particular circumstances of each case.

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<sup>5</sup> This procedure will not apply in cases where property is subject to an agreement to purchase under any discretionary purchase scheme, or to compulsory acquisition in relation to subsoil interest only.

<sup>6</sup> A copy can be found at <https://www.gov.uk/government/publications/hs2-guide-for-farmers-and-growers>.

## Appendix 5: Mr Clive Higgins and Mrs Margaret Higgins (petition no. 180)

123. In paragraph 8 of Appendix 5 of the report the Select Committee said:

*“Mr Higgins’ comment on the promoter’s revised plan is that speed limits are regularly disregarded, and that if he is killed by someone driving at an illegal speed he will be no less dead. We understand his strong feelings, but we do not think it right to direct the promoter to adopt Mr Higgins’ latest scheme. The most we feel able to do is to direct, and we do direct, the promoter to consider with the highway authority (which will ultimately have the last word) whether there should be a speed limit, what it should be, and whether it can be reinforced by a pinchpoint, speed bumps, or other means.”*

124. The Promoter will require the nominated undertaker to ensure that the realignment of Addison Road will meet design standards for the speed limit considered appropriate by the local highway authority. During detailed design, the nominated undertaker will work with the highway authority to consider whether traffic calming would be necessary to control vehicle speeds.

## Appendix 7: Petitions heard during the final days of hearings

125. In paragraph 13 of Appendix 7 of the report the Select Committee said:

*“We are not unsympathetic to FL-AXA. Its position is very different from that of Quintain Limited, which has no more than a leasehold interest in a small part of what ought to be an iconic, unified redevelopment. But the best way forward for FL-AXA must be to continue negotiations for a pre-emption agreement that will forestall the need for application of the Crichel Down rules.”*

126. Discussions are continuing between the parties.

## Conclusion

127. The Promoter gratefully acknowledges the Select Committee’s report and recommendations. Members of the Select Committee have devoted considerable time and effort to providing conscientious and balanced deliberations on the petitions presented to them. The Promoter would like to thank members for the patient and dedicated manner in which they have approached their task.

128. We recognise the demands this process has placed on petitioners. The Promoter has always endeavoured to be as accommodating as reasonably practicable. We have listened to those affected by the scheme and in many cases been able to make the changes being called for.

129. The commitments in this response will require ongoing diligence with respect to design and construction methodology, transparency and clarity in communication with affected parties and swift resolution of outstanding issues. The Promoter will ensure it makes every effort to fulfil these requirements.

## Annex A

### Iver Parish Council, Iver Community Group and Richings Park Residents' Association (petition nos. 639, 702 and 666)

#### *Text of assurance to be offered to Buckinghamshire County Council*

##### **Iver - Public realm and highways funding**

1. In light of the potential impacts on Iver Parish, particularly on local roads, and taking into account the other committed developments in the area, the Secretary of State will, subject to the proposals in AP2 to relocate the Heathrow Express Depot at Langley ("the Depot") being brought into effect, require the Promoter to actively engage with Iver Parish Council, Richings Park Residents' Association and the Iver Community Group, along with Buckinghamshire County Council as the local highway authority, regarding the identification of potential improvements to:

- the public realm; and
- pedestrian or cyclist experience

in Iver Parish for the purpose of mitigating the impacts of the relocation of the Depot to Langley.

2. Subject to agreement of terms (to include auditing arrangements, governance and conditions), and to the Secretary of State deciding to implement the powers in AP2 to relocate the Depot to Langley, the Secretary of State will require the nominated undertaker to make a contribution up to a maximum of £500,000 ("the Contribution") towards discrete and defined projects within and around Iver Parish supporting the public realm and pedestrian or cyclist experience (including any associated fund management costs).

3. For the avoidance of doubt, the terms referred to in paragraph 2 shall include, but not be limited to terms which require that the Contribution must, in the areas of Iver Parish affected by the implementation of the powers in AP2 to relocate the Depot to Langley:

- be used solely for the purpose of funding (wholly or in part) of physical developments and improvement projects;
- demonstrably improve existing road-user, cyclist and pedestrian provision;
- demonstrably enhance the public realm and pedestrian or cyclist experience.

4. Any consents or permits required to facilitate improvements to be implemented pursuant to paragraph 2 must be obtained by Buckinghamshire County Council and Iver Parish Council. The associated works must be delivered by Buckinghamshire

County Council or its contractors, save for when it is agreed between the parties (acting reasonably) that it would be prudent for the nominated undertaker to carry out any part of any required works (in which case the cost of such works will be deducted from the Contribution or the nominated undertaker shall be paid by either Buckinghamshire County Council or Iver Parish Council to undertake such works), or for a third party to deliver the works at the cost of the Councils.

5. Such works must not impact on the timely, economic and safe delivery and operation of the Depot.

6. The Contribution shall be paid following agreement of the full terms on the date agreed as a single payment to Buckinghamshire County Council in full and final settlement of any future claim by Buckinghamshire County Council, Iver Parish Council, Richings Park Residents' Association or Iver Community Group as a consequence of construction and operation of the Depot.

7. In the event that the Contribution or any part thereof payable pursuant to paragraph 2 of this assurance is not applied by the County Council within five years of the receipt of the Contribution to refund to the Secretary of State such unexpended contribution or part thereof (as the case may be) together with interest thereon calculated at the base rate of such Bank as to be agreed in the detailed agreement from time to time from the date of such payment until the date of repayment.

8. For the avoidance of doubt the assurances contained in this letter are entirely without prejudice to the assurances contained in the letter of assurance given to Slough Borough Council and dated 21 January 2016.



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