



Report to the Secretary of State for Transport

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an Inspector appointed by the Secretary of State for Transport

Date: 31 August 2017

TRANSPORT AND WORKS ACT 1992

TOWN AND COUNTRY PLANNING ACT 1990

**High Speed Rail (London – West Midlands) (Greatmoor Railway Sidings
Etc) Order 201[x]**

and

Application for Deemed Planning Permission

Dates of Inquiry: 18 – 20 July 2017

File Ref: DPI/J0405/17/1

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ABBREVIATIONS AND GLOSSARY

Applicant/Promoter	HS2 Limited
AP4 scheme or HS2 Act scheme	Additional Provision 4 scheme (introduced into the HS2 Act 2017 to make provision for replacement railway sidings close to Calvert village)
AVDC	Aylesbury Vale District Council
BCC	Buckinghamshire County Council
BBOWT	Buckinghamshire, Berkshire and Oxfordshire Wildlife Trust
EfW	Energy from Waste
EIA	Environmental Impact Assessment
EPS	European Protected Species
EWR2	East West Rail Phase 2
FCC	FCC Waste Services (UK) Limited
GRIP2	Governance of Railway Investment Projects, Stage 2
Habitats Regulations or 2010 Regulations	The Conservation of Habitats and Species Regulations 2010
HGV	Heavy Goods Vehicle
HS2 Act	High Speed Rail (London – West Midlands) Act 2017
MWCS	Buckinghamshire Minerals and Waste Core Strategy 2012
NERC	Natural Environment and Rural Communities Act 2006
NPPF	National Planning Policy Framework
NPPW	National Planning Policy for Waste
PROW	Public Right of Way
SSSI	Site of Special Scientific Interest
TWA	Transport and Works Act 1002

CASE DETAILS

File Ref: DPI/J0405/17/1

High Speed Rail (London – West Midlands) (Greatmoor Railway Sidings Etc) Order 201[x]

- The Order would be made under sections 1 & 5 of the Transport and Works Act 1992.
- The deemed planning application would be granted by a Direction under section 90(2A) of the Town and Country Planning Act 1990.
- The application was made on 9 August 2016 under section 6 of the Transport and Works Act 1992.
- The object of the Order is to authorise the Applicant, HS2 Limited, to construct railway sidings and associated works adjacent to the Aylesbury Link Railway for the loading and offloading of spoil and waste material to the Calvert Landfill and the Greatmoor Energy from Waste Facility in the District of Aylesbury Vale, County of Buckinghamshire. The works are required in connection with Phase 1 of the proposed High Speed Railway between London and Birmingham and would replace existing railway sidings and facilities for the transfer of waste currently operated by FCC Waste Services (UK) Limited.
- The application for the Order was advertised in the appropriate newspapers and a number of objections, letters of support and other representations were received. 8 objections were submitted, of which 3 were withdrawn before the Inquiry. The main matter at issue for the Inquiry was the potential for impacts on the local bat population.
- The inquiry sat for 3 days on 18-20 July 2017.

Summary of Recommendations: That the Order be made, subject to modifications, and that deemed planning permission be granted subject to conditions.

Preamble

1. This report includes brief descriptions of the works and other matters covered by the proposed Order, the site and surrounding area, the Statement of Matters, the gist of the representations made, and my conclusions and recommendations. Document references are shown in brackets, and in my conclusions the numbers in square brackets indicate the relevant paragraphs of the report. Details of the people who took part in the public inquiry and comprehensive lists of documents are attached at the end of the report. Documents are denoted CD for core documents, INQ for inquiry documents, and with other prefixes denoting the parties involved.

Procedural Matters and Statutory Formalities

2. Appropriate procedures have been followed in making the applications for the Order and Deemed Planning Permission, as described and confirmed in the Compliance Pack (Document INQ/5). In particular, the applications were advertised in the Bucks Herald, Buckingham and Winslow Advertiser and the London Gazette in early August 2016, and a period for making objections and representations was allowed up to 21 September 2016.
3. Eight objections were received from:
 - Southern Gas Networks;
 - Mr Christopher Prideaux (a local landowner)

- National Grid;
- the Berkshire, Buckinghamshire and Oxfordshire Wildlife Trust (BBOWT);
- the National Trust;
- the Portway Farm Partnership;
- Western Power Distribution (East Midlands) plc;
- Natural England.

3 objections were withdrawn before the Inquiry: Southern Gas Networks on 13 February 2017 (copy not seen by Inspector); National Grid on 31 May 2017 (Doc NG/1); and Western Power Distribution (West Midlands) plc on 12 July 2017 (Doc WP/1).

2 other objections were later submitted to the Inquiry: Mr Landells on behalf of Twyford Parish Council; and Dr Eaglen.

4. Eight letters of support were received from:

- Mrs Sandy D'Amon, a resident of Calvert;
- Nick Osgerby, Parish Clerk, Steeple Claydon Parish Council;
- Rt Hon John Bercow MP;
- Cllr Philip Gaskin, Calvert Green Parish Council;
- Lesley Taylor, a resident of Calvert;
- Patricia Lambert, Clerk, Charndon Parish Council;
- Philip Gaskin, resident of Calvert;
- Angela Macpherson, County & District Councillor, Buckinghamshire County Council and Aylesbury Vale District Council

2 representations were also received from:

- FCC Waste Services (UK) Ltd (FCC), the operator of the railway sidings (effectively, a letter of support and reported as such below);
- Buckinghamshire County Council (BCC) and Aylesbury Vale District Council (AVDC).

5. Following the receipt of objections, the Secretary of State decided to hold an Inquiry into the application for an Order and, pursuant to rule 7(6) of the Transport and Works (Inquiries Procedure) Rules 2004, subsequently issued the Statement of Matters, identifying the matters on which he particularly wished to be informed (TWA Orders Unit, 10 January 2017), though this did not preclude me from also hearing evidence on other matters.

6. These matters are listed as follows:

- (1) The aims and the need for the proposed High Speed Rail (London – West Midlands) (Greatmoor Railway Sidings Etc.) Scheme (“the scheme”).

- (2) The main alternative options considered by HS2 Limited and the reasons for choosing the proposals comprised in the scheme.
- (3) The extent to which the proposals in the TWA Order are consistent with the National Planning Policy Framework, national transport policy, and local transport, environmental and local planning policies.
- (4) The likely impacts of constructing and operating the scheme on land owners and tenants, local residents, the public, utility providers and statutory undertakers, including any adverse impact on their ability to carry on their business or undertaking. Consideration under this heading should include:
 - (a) impact of noise, dust, fumes and vibration including the effects of construction traffic and work sites;
 - (b) impacts on means of access to properties;
 - (c) impacts on ecological and archaeological interests; and
 - (d) impacts on landscape and visual amenity.
- (5) The measures proposed by HS2 Limited to mitigate any adverse impacts of the scheme including:
 - (a) The proposed Code of Construction Practice;
 - (b) Any measures to avoid, reduce or remedy any major or significant adverse environmental impacts of the scheme;
 - (c) Whether, and if so, to what extent, any adverse environmental effects would remain after the proposed mitigation; and
 - (d) Any protective provisions proposed for inclusion in the draft TWA Order or other measures to safeguard the operations of statutory undertakers.
- (6) The likely impacts of the scheme on the local and natural environment, including whether implementation of the scheme is likely to damage or destroy a breeding site or foraging area of any species protected under the Conservation of Habitats and Species Regulations 2010 ("the 2010 Regulations"); and, if so, whether appropriate mitigation measures have been designed and what Natural England's view is (in light of those proposed mitigation measures) of the likelihood of their granting licences under the 2010 Regulations when applied for by the promoter.
- (7) The adequacy of the Environmental Statement submitted with the application for the TWA Order, having regard to the requirements of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006, and whether the statutory procedural requirements have been complied with.
- (8) Having regard to the criteria for justifying compulsory purchase powers in paragraphs 12 to 15 of the DCLG Guidance on the "Compulsory purchase process and the Crichel Down Rules for the disposal of surplus land

acquired by, or under the threat of, compulsion” (published on 29 October 2015):

- (a) Whether there is a compelling case in the public interest for conferring on HS2 Limited powers compulsorily to acquire and use land for the purposes of the scheme; and
 - (b) Whether the land and rights in land for which compulsory acquisition powers are sought are required by HS2 Limited in order to secure satisfactory implementation of the scheme.
- (9) The conditions proposed to be attached to the deemed planning permission for the scheme, if given, and in particular whether those conditions satisfy the six tests referred to in Planning Practice Guidance, Use of Conditions (Section 1D:21a).
- (10) HS2 Limited’s proposals for funding the scheme.
7. The public inquiry took place over 3 days, 18-20 July 2017, at the Littlebury Hotel in Bicester. I also carried out a site visit on 20 July 2017 which comprised visits to the proposed site for the replacement railway sidings, the existing railway sidings site, and the site proposed under the High Speed Rail (London – West Midlands) Bill (now the High Speed Rail (London – West Midlands) Act 2017) for the replacement sidings. Helen Wilson acted as the independent Programme Officer for the Inquiry, assisting me with the procedural and administrative aspects. She helped greatly in ensuring that the proceedings ran efficiently and effectively but has played no part in my writing of this report.
8. In addition to HS2 Limited, the scheme promoter, 2 parties gave evidence at the public inquiry in support of the proposed Order: FCC, the operator of the current railway sidings; and Cllr Angela Macpherson, on behalf of Calvert Green Parish Council. 3 objectors gave evidence at the inquiry: Natural England; Mr Christopher Prideaux, a local landowner; and Mr Roger Landells, representing the Twyford Parish Council.
9. The BBOWT had intended to appear as an objector. However, their representative, Mr Matthew Jackson, was unable to attend for personal reasons and, instead, at my invitation, submitted a further statement to explain the BBOWT’s latest position for the Inquiry (Doc BBOWT/2). Another third party, Dr Chris Eaglen, submitted written objections but was unable to attend the inquiry. Several further letters of support were also submitted to the inquiry by: Rt Hon John Bercow MP (Doc CGPC/2); the Leader of Buckinghamshire County Council (Doc BCC/1); and the Leader of Aylesbury Vale District Council (Doc AVDC/1).

The Order and Application (Doc HS2/1/A and CD/1)

10. An Explanatory Memorandum was submitted at the time of the application (Doc CD/3) which summarises the proposed scheme and the scope of the Order. The aim of the scheme is to provide replacement railway sidings to serve the landfilling operations and Energy from Waste (EfW) plant at the Calvert and Greatmoor strategic waste complex, and the Order seeks powers to construct and operate the replacement sidings, including associated powers for compulsory purchase and other rights. The existing railway sidings will be displaced by the proposed HS2 Phase 1 railway lines, which will run alongside the existing Aylesbury Link line.

11. The application also seeks deemed planning permission under section 90(2A) of the Town and Country Planning Act 1990 by means of a Direction from the Secretary of State (see Doc CD/12). That permission would be subject to a set of appropriate planning conditions.
12. The proposed works are conveniently illustrated on Planning Direction Drawing Sheet 7 (Docs CD/13). The works comprise:
 - reception sidings comprising twin tracks some 440 metres long running between brideways QUA/36 and GUN/28, which would provide holding capacity for trains arriving and leaving the operational sidings;
 - operational sidings running north of bridleway GUN/28 comprising twin tracks some 440 metres long with a connected head shunt, served by mobile spoil grabs for unloading loose spoil from railway wagons;
 - a second similar set of twin operational sidings but served by 2 mobile gantry cranes for handling containerised waste delivered by rail;
 - an extension of the green bridge to carry bridleway QUA/36 over the reception sidings as well as over the existing Aylesbury Link line and the proposed HS2 Phase One railway;
 - an extension and widening of the green bridge to carry bridleway GUN/28 over the reception sidings (as well as over the Aylesbury Link line and the proposed HS2 Phase 1 railway) and to accommodate road access to the replacement sidings from Greatmoor Road;
 - realignment of Greatmoor Road to provide access to the replacement sidings; and
 - connections to the Aylesbury Link railway line at each end of the reception sidings to allow train access from both the north and the south.
13. The Order also includes for the compulsory acquisition of land and rights in land and for both the permanent and temporary stopping up or diversion of public rights of way (PROWs). The areas of land concerned are detailed in the Book of Reference (Doc CD/11) and on the Works and Land and Public Rights of Way Plans (Docs CD/9). 7 PROWs would be subject to permanent diversion, 3 to permanent stopping up and 13 to temporary stopping up.
14. Most of the land in question is owned by FCC. The other parties with interests in the land are: Network Rail; the Portway Farm Partnership, which has an Agricultural Holdings Act tenancy on land at Upper Greatmoor Farm, the landlord being FCC; the BBOWT, which owns and manages Finemere Wood Nature Reserve, of which approximately 1 hectare would be involved; and Mr Stephen John Hodges, who owns Oak Tree Farm, of which less than 0.1 hectare would be involved.
15. The HS2 Act 2017 includes provision for replacement railway sidings and elevated transfer facilities at a site further north than the Order proposal (known as the AP4 scheme). However, this gave rise to substantial objections from the local authorities, local residents and the sidings and waste complex operator, FCC, and to petitions for the relocation of the replacement sidings. The House of Commons Select Committee was sympathetic to these objections, and subsequently the

Secretary of State undertook to require the nominated undertaker (HS2 Limited) to promote this Transport and Works Act Order for alternative replacement sidings.

16. Since the Order application was made the HS2 Act has been enacted, and amendments to the draft Order are now proposed to take into account several consequential matters and drafting clarifications. The latest versions of the draft Order are at Documents INQ/7 and INQ/8 (tracked and clean versions respectively), and the amendments are detailed in Document INQ/9.

The Order Land/Site and Surroundings (Doc HS2/1/A)

17. The site lies alongside the Aylesbury Link railway line, south-east of the village of Calvert and south of Sheephouse Wood in Buckinghamshire (see Location Plan at Sheet 1 of Works and Land and Public Rights of Way Plans (Docs CD/9) and Planning Direction Drawing Sheet 7 (Docs CD/13)). The site has an area of approximately 36 hectares primarily in agricultural use for grazing or arable crops. The recently constructed Greatmoor EfW facility and the current and former landfill areas within the Calvert Landfill site are located on the opposite (west) side of the railway line to the west and north-west of the proposed scheme respectively. The village of Calvert is approximately 1.8 km north of the proposed site and is the nearest residential community.
18. The site is close to 2 Sites of Special Scientific Interest (SSSI). Sheephouse Wood SSSI is just 30 m north of the proposed operational sidings and is designated for its ancient woodland habitats and associated assemblages of birds, invertebrates and plants. Finemere Woods SSSI is approximately 170 m east of the proposed reception sidings and some 600 m south east of the proposed operational sidings where waste would be transferred off trains. It is also designated for its ancient woodland and assemblages of plants, woodland birds and invertebrates.
19. The woodland blocks around the site are remnants of the medieval royal hunting forest of Bernwood Forest and, together with the intervening farmland, it supports an important assemblage of bat species, including the largest known population of Bechstein's bat in the UK. This is one of the rarest bats in the UK, and the population is on the north-western edge of its known distribution in Europe.
20. Many of the villages in the area have historic connections with Bernwood Forest, and there are several listed buildings in the area, including Finemerehill House (on higher ground to the east of the site), Lower Greatmoor Farm (close to the EfW facility) and Doddershall House (beyond a wooded hill to the south west of the site).

Case for the Applicant

This summary of the Applicant's case is structured to reflect the matters identified in the Secretary of State's Statement of Matters. Document INQ/6 indicates the various sources of HS2 Limited evidence on each matter.

The material points are:

Matter 1: Aims and Need for Scheme (Docs CD/15, HS2/1/A and HS2/5/A)

21. The Calvert Landfill site and the Greatmoor EfW facility together make up a strategic waste complex operated by FCC Waste Services (UK) Limited, a leading UK waste management and energy recovery company. The importance of the complex is recognised in Policy CS11 of the Buckinghamshire Minerals and Waste Core Strategy 2012 (MWCS) (Doc CD/25), which places considerable importance on increased use of rail deliveries to the complex. Indeed, the planning permission for the new EfW facility includes a condition requiring opportunities for increased rail deliveries to be reviewed every 2 years.
22. FCC has a 30 year contract with Buckinghamshire County Council (BCC) to dispose of about 110 tonnes of waste per annum, and the remainder of the plant's 300,000 tonnes per annum capacity is met by other waste contracts, including Hertfordshire, Luton and North London Waste Authorities. The latter is all delivered by train. BCC has a long-term policy aim to deliver as much waste as possible by rail to Calvert and has safeguarded sites throughout the County with potential for waste transfer by rail. Thus the importance of the existing railway sidings at Calvert is well established.
23. The Calvert rail sidings currently accept 4 trains per day, though they are capable of off-loading up to 8 trains per day, and the proposed new sidings have been designed to replicate that capacity. At 4 trains per day the present operations result in some 250 fewer articulated lorry vehicle movements per day, and there is potential for this to increase in the future. However, the existing sidings will be displaced by the proposed new HS2 Phase 1 lines, which will run parallel to the existing Aylesbury Link line, and so replacement sidings are needed.

Matter 2: Alternatives Considered (Docs CD/15, HS2/1/A, HS2/2/A and HS2/5/A)

24. The Order scheme has been developed as a better alternative to the sidings replacement scheme included in the HS2 Act. That scheme would involve new sidings being constructed on the opposite side of the existing rail lines and quite close to the present sidings. However, the proposed Order scheme would show substantial benefits over that scheme in terms of amenity, operational convenience and efficiency, rail network resilience, and construction compatibility and safety.
25. Moving the sidings well away from the village of Calvert would remove their amenity impacts from a residential area in terms of noise, dust and odour. It is for this reason that BCC, AVDC, several local parish councils and numerous local residents objected to the HS2 Act scheme and petitioned for a better one, supported by their local Member of Parliament, the Rt. Hon. John Bercow MP. All of these have indicated their support for the proposed Order scheme as a far better alternative.
26. So far as FCC are concerned, the proposed scheme would provide a range of benefits over the HS2 Act scheme: reduced potential for conflict with the amenity of the nearby residents of Calvert; a location closer and more convenient to the landfill and EfW facilities served by the sidings; moveable gantry cranes so that engines can be turned off during off-loading operations; and improved and more efficient arrangements for connection to the rail network.

27. The proposed scheme would have a fully self-contained run-around facility within the reception and operational sidings, thus avoiding the need for shunting manoeuvres close to the village of Calvert (under the HS2 Act scheme) or on the local rail network to reposition engines from one end of the train to the other (the current arrangement). Thus trains would be able to enter and leave the sidings in either direction. This facility would also be beneficial during construction works on the main lines over the coming years.
28. The twin track HS2 Phase 1 lines are to be constructed past the proposed sidings site, and proposals are also being formulated to replace the Aylesbury Link line with new twin tracks for the East West Rail Phase 2 scheme (EWR2). During construction of these new main lines the ability of being able to access the sidings from either direction would enable easier and safer construction methods to be used. Whilst the lines to the south of the sidings are being constructed, access to the sidings could be maintained from the north, and vice versa when lines to the north are being constructed. This would avoid the contractor having to maintain operational access along a main line whilst constructing other lines close by, thus reducing construction constraints and safety risks.
29. The House of Commons Select Committee was sympathetic to the need to find a better solution for the replacement sidings than the HS2 Act scheme, particularly on account of the amenity of local residents. The Order scheme is the preferred alternative.
30. At the proposed site itself several alternative layouts have been considered, some with the sidings splayed at an angle to the main railway line and some with them parallel to it. A parallel arrangement is preferred because the effects could be better contained and less of the surrounding area considered important for bat foraging would be affected. The parallel scheme selected would affect less agricultural land than the other "parallel" scheme and have fewer landscape and visual effects (see Alternative Sidings assessment report at Document CD/24). That scheme has been further developed and refined to minimise its environmental effects.

Matter 3: Consistency with Planning Policy (Docs CD/15 and HS2/4/A)

31. TWA Guidance advises that relevant national, regional and local planning policies are to be taken into account when considering an application for a TWA Order. The scheme is aligned with waste and transport policies that promote the use of rail as a low carbon alternative for freight movement. Specifically with regard to Calvert, the proposed scheme supports the policy aspirations of BCC and AVDC set out in Policy CS11 of the MWCS, adopted in 2012, that have secured allocation of the Calvert/Greatmoor facilities as a Strategic Waste Complex, recognising its locational advantage as a rail link site.
32. The principle of the development is consistent with the National Planning Policy Framework (NPPF) and the National Planning Policy for Waste (NPPW), particularly in providing for the sustainable movement of freight and supporting the waste strategy. Mention is made above of the key MWCS policy, Policy CS11, but Policy CS7 also safeguards the Calvert Strategic Waste Complex as a site for waste purposes. Further support is provided by the Buckinghamshire Local Transport Plan 4, adopted in 2016, which recognises that "managing rail freight is a vital part of keeping Buckinghamshire thriving and attractive" and that waste has been transported from Hillingdon to Calvert by rail since the late 1970s.

33. Detailed national, regional and local policies are addressed in some detail in the HS2 Limited evidence (especially Docs CD/15 and HS2/4/A), particularly in respect of transport, rights of way, amenity (noise, air quality and lighting), design, landscape, the historic environment, agricultural land, flood risk and climate change. However, as these are not matters subject to any dispute, they are not addressed further in this report (Inspector's note).
34. Policies to safeguard the Natural Environment are also explained in some detail. NPPF paragraph 118 says that: where significant harm cannot be avoided, mitigated or compensated, permission should be refused; development likely to adversely affect a SSSI should be refused unless the benefits "clearly outweigh" the impacts on the SSSI; and development that would result in the loss of irreplaceable habitat should be refused unless the need and benefits "clearly outweigh" the loss. The MWCS and draft Aylesbury Vale Local Plan policies are similar.

Matter 4: Impacts on Landowners and Tenants, Local Residents, General Public, Utility Providers and Statutory Undertakers (Docs CD/15, HS2/1/A and HS2/3/A)

35. Five parties have landowner or tenant interests in the land: FCC; Network Rail; the Portway Farm Partnership; the BBOWT; and Mr Stephen John Hodges. FCC supports the scheme wholeheartedly on account of the beneficial impacts on its waste business. Network Rail is supportive of the scheme (Doc NR/1) and is working collaboratively with HS2 Limited to successfully deliver HS2 Phase 1, EWR2 and the Greatmoor Sidings Scheme. Less than 0.1 hectare of Mr Hodges' land would be affected, and he has not raised any objections to the scheme.
36. The Portway Farm Partnership farms land at Portway Farm, Shepherds Furze Farm and Upper Greatmoor Farm. Upper Greatmoor Farm is owned by FCC but is farmed under an Agricultural Holdings Act tenancy, and part of the land would be subject to compulsory purchase. The Partnership has raised 3 concerns: the effects on the viability of the business due to the loss of some of the land; the loss of vehicular access; and the effects of construction on land drains.
37. HS2 Limited has offered assurances in regard to access and the existing land drains for agricultural land to be retained, and has submitted a draft tripartite agreement between HS2 Limited, FCC and Anthony Wood for the Partnership (Doc INQ/20), which it is reported has been agreed but not yet formally completed. The agreement covers withdrawal of the objection, surrender of the tenancy on the land affected, environmental mitigation planting, field reinstatement, the maintenance of access to the land, and mitigation of any impacts on land drainage, but does not affect the Partnership's rights to compensation in accordance with the National Compensation Code. When the agreement has been completed the Portway Farm Partnership will formally notify the TWA Unit of the withdrawal of its objection.
38. The BBOWT owns Finemere Wood, which it runs as a Nature Reserve, to the east of the southern end of the proposed scheme. An area of land in BBOWT's ownership would be required for a Vegetation Management Zone for environmental mitigation purposes in respect of the bat population and would be retained and maintained for that purpose in the future. The BBOWT has confirmed that it does not object to the grant of powers necessary for this and has provided a Heads of Terms for Agreement, subject to contract (Doc

BBOWT/2a), which merely requires arrangements for management of the zone to be agreed (Doc BBOWT/2).

39. Turning to impacts on local residents and the general public, the likely effects of both construction and operation have been assessed in the Environmental Statement (Doc CD/7). The scheme has been designed to minimise its effects on the landscape and on visual amenity by landscaping and the use of mitigation planting close to the operational boundary. Significant visual effects would occur in views from Finemerehill House and footpaths to the south east but these would reduce over time as the mitigation planting matures.
40. Noise levels may increase during construction due to an increase in traffic on local highways. However, noise and vibration from construction would be controlled through measures in the Code of Construction Practice (Doc CD/33A). Operation of the sidings is predicted to give rise to moderate adverse noise affecting 4 residential properties, which would be mitigated by measures included within the main HS2 Phase 1 scheme to reduce the impacts of noise associated with HGV movements. The Code of Construction Practice would also provide effective control of dust and fumes during the construction period.
41. Construction of the sidings has the potential to disturb archaeological remains, although none would be expected. Nevertheless, the risks would be reduced by requiring an archaeological evaluation to be carried out prior to the start of construction. Finally, the potential for effects on agricultural land would be controlled and mitigated under the Code of Construction Practice.
42. Any scheme of this nature has the potential for impacts on utility providers and statutory undertakers, and the objectors included Southern Gas Networks, National Grid and Western Power Distribution (East Midlands) plc. These objections were made on account of concerns for their apparatus and access rights. However, all 3 companies are now satisfied with HS2 Limited's assurances and have subsequently withdrawn their objections (13 February 2017, 31 May 2017 and 12 July 2017 respectively).

Matter 5: Measures to Mitigate any Adverse Impacts (Docs CD/15, HS2/1/A and HS2/4/A)

43. Suitable mitigation measures for the landowners and tenants affected by the scheme have been included in the draft agreements described above. Measures for the protection for gas and electricity undertakers are included in the HS2 Act 2017, and that protection is applied to the proposed sidings scheme through Schedule 7 of the Order.
44. Further to the mitigation measures described under Matter 4 above, the wider environmental effects would be controlled through a number of mechanisms:
 - Arrangements within the Order that limit the land to be used (Doc INQ/8);
 - Conditions proposed to be attached to the Planning Direction;
 - Existing legislation for environmental protection.
45. Proposed conditions would cover: the Code of Construction Practice; landscape design and landscape management plan; archaeology; surface water drainage; lighting; operational hours; the management of trains outside operational hours;

air quality; and noise. Conditions are described in more detail under Matter 9 below.

Matter 6: Impacts on the Natural Environment, including Protected Species, and Mitigation Measures (Docs HS2/3/A, HS2/1/A and CD/15)

46. The Environmental Statement provides an assessment of the likely effects of the scheme on the natural environment, including in-combination effects with the main HS2 Phase 1 scheme and the proposed EWR2 scheme (Doc CD/7, Volume 2 (Main Environmental Statement), Chapter 9 and Technical Appendices Volume 4.8 (Ecology baseline data, survey results and non-significant effects)). The assessment considered both the temporary construction and the longer-term operational effects.
47. Construction of the scheme would lead to the loss of a pond located to the south-east of the Bridleway GUN/28 accommodation green overbridge which, together with the removal of scrub and semi-improved grassland adjacent to the Aylesbury Link railway line, may result in a significant adverse effect on great crested newts. The terrestrial and aquatic habitat loss associated with the cumulative impact of the sidings scheme and the HS2 Phase 1 and EWR2 schemes will have a significant adverse effect on the great crested newt population.
48. Construction of the 3 schemes will have a significant adverse effect on a pair of breeding barn owls at a nearby farm due to the disturbance caused by the works. The width of fragmentation of bat flights at railway crossing points would also be increased for a period of about a year.
49. Operation of the sidings scheme and the increased future use of the main railway lines would have the potential to cause ongoing disturbance to the maternity colonies of Bechstein's bats and other woodland bat species associated with Sheephouse, Finemere and Romer and Greatsea Woods, though mitigation measures would be implemented to minimise this, and it is unlikely there would be any cumulative effects on any of the bat species.
50. A range of measures would be effected to mitigate ecological impacts, including:
 - Carrying out construction work during the normal working day so far as possible;
 - Replacement of waste trucks with lower emission vehicles to reduce risks of air pollution affecting the Sheephouse Wood SSSI;
 - Improved alignment and width for the Bridleway GUN/28 accommodation green overbridge to enable bats to use this key flight line;
 - Operational timing restrictions to minimise effects on bats;
 - A lighting strategy designed to avoid illumination of areas where bats are most likely to be active;
 - Temporary measures such as mobile hedgerows;
 - 7 hectares of additional woodland planting (over and above that already proposed for the HS2 Phase 1 scheme), which when established will strengthen flight lines, foraging and roosting habitat for bats;

- Environmental mitigation barriers (noise/light) to avoid operations affecting bats and birds;
 - Additional ponds and areas of rough grassland to compensate for the loss of the pond and to provide additional habitat for amphibians and reptiles.
51. The benefits of the mitigation measures would ensure there would be no significant adverse residual effects from operation of the proposed sidings.
52. The main matter of concern to Natural England and the BBOWT has been the possible effects on bats. The Bernwood Forest area supports a nationally important population of Bechstein's bat and a regionally important assemblage of woodland bat species (Brandt's, Natterer's, brown long-eared, Daubenton's and whiskered bats). A total of 13 species have been recorded to varying degrees.
53. All species of bats are protected under UK legislation through the Conservation of Habitats and Species Regulations 2010 (the Habitats Regulations) and the Wildlife and Countryside Act 1981 (extracts at Appendices 1 and 2, Doc HS2/3/B). All bat species are European protected species (EPS) and protected under Regulation 41 of the Habitats Regulations. Thus it is an offence to deliberately disturb them or to damage or destroy a breeding site or resting place. However, Regulation 53 permits a licence to be granted by the competent authority (Natural England) for activities that would otherwise constitute an offence under Regulation 41 where the 3 tests of overriding need, no satisfactory alternatives and maintenance of the populations of species affected in favourable conservation status can be met.
54. HS2 Limited acknowledges that a licence will be required for construction of the proposed sidings scheme together with HS2 Phase 1 but considers it is not necessary for subsequent operations as the design, mitigation and operational controls would enable operations to be carried out without contravention of Regulation 41. These measures would include: the provision of green bridges and underpasses to ensure continuity of flight lines across the sidings and railway corridor; improvement to flight paths and foraging and roosting areas by additional planting measures; and measures to minimise noise and light disturbance in areas used by bats. These conclusions are not in dispute.
55. A draft application for an EPS licence for the construction phase has been submitted to Natural England supported by several associated documents (latest version is at Docs HS2/3/B1-B7 inclusive), and it is considered that this will meet the necessary tests prescribed. The suite of measures to minimise disturbance to bats are detailed in the draft licence application, the draft Bernwood Master Plan, the Code of Construction Practice and the draft Bernwood Forest Monitoring Strategy. HS2 Limited's expert witness explained the purpose of each of these at the public inquiry.
56. The Reasoned Statement for the purpose of Imperative Reasons of Overriding Public Interest (Doc HS2/3/B5) addresses 2 of the tests: overriding need; and no satisfactory alternative. It is Government policy that further investment in national rail infrastructure is essential to meet growing demand for travel and that the HS2 scheme is the optimal solution to meet that need and provides best value. The replacement sidings proposed under this Order are an essential accommodation to replace existing sidings displaced by the HS2 Phase 1 scheme.

57. There is a compelling case for delivering the HS2 scheme in terms of meeting the increasing demand for travel, the nationwide economic benefits it will bring, the improved connectivity for economic performance and the job creation benefits. National and local planning policy supports rail as a sustainable means of transport, and the relocation of the sidings at Greatmoor delivers long-term operational capacity and capability for FCC's waste facilities consistent with national and regional planning policy, including the MWCS and the Buckinghamshire Local Transport Plan 4. Thus the sidings are essential and fall within the definition of purposes for which an EPS licence may be granted under Regulation 53 of the Habitats Regulations, i.e. sub-paragraph 2(e): "*preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary purposes for the environment*".
58. Regulation 53(9)(a) specifies the second test: "*that there is no satisfactory alternative*", and this is also addressed in the Reasoned Statement. A number of alternative alignments for the HS2 Phase 1 scheme were considered, and the adopted route was selected as having the least environmental impact. As described earlier, the HS2 Act 2017 included provision for a replacement sidings scheme at another location but the location selected for the Order scheme has considerable environmental benefits over that. This was recognised by the House of Commons Select Committee, who in their Second Special Report (Doc CD/23) expressed a strong preference for the sidings location promoted under this Order and directed that it be taken forward through a Transport and Works Act Order. Several alternative layouts for this site have also been considered, and the Order scheme is considered to have the least impact. It is concluded that there is no satisfactory alternative that would have less environmental impact.
59. The Work Schedule (Doc HS2/3/B7) includes the provisionally proposed timetable for the coordinated construction of the new sidings with this stretch of the HS2 Phase 1 and EWR2 schemes. The Bernwood Master Plan (Doc HS2/3/B1) presents a comprehensive phasing plan aimed at minimising effects on the assemblage of bats, and the "Derogation Report" (Doc HS2/3/B4) assesses the long-term operational impacts, including allowances for the proposed mitigation measures. It is this assessment that leads to the conclusion that an EPS licence is not required for operation of the HS2 Phase 1 scheme and the sidings scheme.
60. Finally, the Bernwood Monitoring Strategy (Doc HS2/3/B2) sets out details of the monitoring strategy and potential mitigation measures that will be implemented if impacts on the woodland bats were identified during both the construction period and long-term operations. The aim of this strategy is to demonstrate and provide confidence that the favourable conservation status of the bat population is being maintained and that the ecological and compensation measures implemented are effective in addressing the potential cumulative significant effects of the schemes. This demonstrates compliance with the third test at Regulation 53(9)(b): "*that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range*".
61. Natural England and the BBOWT objected to the Order because of concerns about effects on the bat population. However, as the inquiry approached and HS2 Limited provided further information, their doubts became more focused and essentially became centred on the need to acknowledge a residual level of risk

and doubts about whether the proposed monitoring programme would be able to lead to appropriate remedial action if monitoring showed it was required in order to maintain the favourable conservation status of the bats (see BBOWT's updated statement at Doc BBOWT/2).

62. In the light of the latest draft of the application for an EPS licence, Natural England has now confirmed that it sees no impediment to the grant of a licence for the construction of the HS2 Phase 1 and Greatmoor Sidings schemes (Natural England letter dated 19 July 2017 {2nd day of inquiry} at Doc INQ/14). The letter explains that that position is subject to several specific and general requirements, which Natural England's expert witness confirmed at the inquiry she was confident could and would be satisfied. HS2 Limited has also submitted written confirmation that it too sees no difficulty in meeting the specific and general requirements (Doc INQ/19).
63. The Natural England letter also makes reference to a draft NERC Management Agreement, the contents of which have been agreed between Natural England and HS2 Limited (see July 2017 draft at Annex 2 of Doc INQ/14). That will be created under section 7 of the Natural Environment and Rural Communities Act 2006 (NERC) and will secure HS2 Limited's commitment to a number of issues relating to the licencing process (on management and monitoring of integrated mitigation and remedial measures). HS2 Limited will enter into the NERC Agreement as soon as the statutory conditions are met, i.e. if the Order is made and when an interest in the land bound by the Agreement has been acquired; it is not able to enter into such an agreement any earlier.
64. In conclusion on the EPS licence and potential effects on protected species, the 3 tests specified in the Habitats Regulations and confirmed in legal judgements are met and, in this respect, the Order may be properly approved.
65. Finally, so far as third parties are concerned, BBOWT's latest note (Doc BBOWT/2) confirms that the latest monitoring proposals submitted with the draft EPS licence application should be sufficient to ensure significant disturbance to the bat population would be identified "if issues relating to securing the monitoring and the approach to analysing the results are addressed". Those outstanding matters are points of detail satisfactorily addressed in HS2 Limited's response note (Doc INQ/21).
66. Mr Prideaux objected to the Order on account of concerns about the impacts on bats, particularly that it is necessary that the application complies with protected species regulations. He has not further elaborated on these concerns, and in his most recent statements has concentrated on a number of other matters. The National Trust also objected to the Order because of the potential impact on bats and concerns about the effectiveness of monitoring and mitigation measures. That original objection has not been withdrawn but has also not been further pursued.

Matter 7: Adequacy of Environmental Statement (Doc HS2/1/A)

67. An Environmental Impact Assessment (EIA) was carried out in accordance with the scoping opinion received from the TWA Unit of the Department for Transport, dated 28 June 2016 (see Doc CD/7 Volume 4.1). The Environmental Statement (Doc CD/7) addresses the construction and operational impacts of the proposed scheme, including:

- description of the proposed scheme;
 - main alternatives considered;
 - description and supporting data in relation to the likely significant effects of the development on the surrounding area;
 - details of the measures proposed to avoid, reduce or mitigate outstanding significant effects on the environment; and
 - any limitations, assumptions or uncertainties of the studies undertaken.
68. A full range of environmental topics have been covered, based on the requirements of the EIA Regulations, and a Non-Technical Summary has been included presented in an accessible style for the non-technical reader. The work has been carried out by suitably qualified consultants, recognised and experienced in this type of work, through a consortium of ERM, Temple Group and Mott MacDonald.
69. The Environmental Statement is adequate, well-founded, thorough and relevant to the scale and nature of the proposed scheme. The relevant statutory procedures for the preparation of the Environmental Statement have been followed.
- Matter 8: Justification for Compulsory Purchase** (Docs CD/15 and HS2/1/A)
70. The amount of land to be acquired or used for the proposed scheme is defined in the Order by the Limits of Deviation and the Limits of Land to be Acquired or Used. These Order Limits are shown on the Works and Land and Public Rights of Way Plans (Doc CD/9). Only land necessary to accommodate the construction, operation and maintenance of the proposed scheme is included in the Order application, and the areas of land included are the minimum required.
71. Most of the land within the Order Limits is owned by FCC, albeit that some is subject to an Agricultural Holding Act tenancy. As described above, only 5 parties have an interest in the land: 2, FCC and Network Rail, support the Order; 2, the Portway Farm Partnership and BBOWT, lodged objections to the Order but have since reached agreement with HS2 Limited; and one, Stephen John Hodges, did not make any objection.
72. As described above in connection with the EPS licence application, there is a compelling case in the public interest to construct and operate the proposed scheme. HS2 Phase 1 is a project of national significance which will displace the current railway sidings used by FCC in connection with its important waste complex. These are an essential operational element of a sustainable waste facility, and their replacement is essential in order to deliver the HS2 Phase 1 scheme. The proposed sidings scheme will enable the benefits of the HS2 scheme to be delivered and the continuing sustainable operation of the waste facilities in accordance with national and regional planning policies.
73. Compulsory purchase of the land and rights specified in the Order is justified in the public interest, and application of the Land Compensation Code and compensation provisions in the Order will ensure fair compensation is paid to the affected landowners and tenants. There is no dispute that the existing sidings have to be replaced and that the scheme proposed under the Order is preferable

to the alternative scheme included in the HS2 Act 2017. There is a compelling case in the public interest to justify the provisions for the compulsory purchase of land and rights.

Matter 9: Conditions to be attached to Deemed Planning Permission (Doc HS2/4/A)

74. HS2 Limited has put forward a set of proposed planning conditions to be attached to the deemed planning permission (Docs INQ/10 and INQ/11, updated as INQ/11a after discussions at the public inquiry). The 6 tests for planning conditions specified in national guidance have been taken into account and, with the exception of an amendment to Condition 9 proposed by Natural England (see details below), the conditions meet these tests.

75. Conditions are proposed as follows:

- Condition 1 for the time limit;
- Condition 2 for compliance with the relevant approved plans and documents;
- Condition 4 for compliance with a Code of Construction Practice (which includes Traffic Management Plans and Travel Plans), to ensure disruption and disturbance caused by construction traffic is minimised to an acceptable level;
- Condition 5 for an Ecology and Landscape Management Plan to ensure habitats are maintained in the surrounding area and the impact of the development on biodiversity is mitigated;
- Condition 6 for a landscape mitigation scheme to control the visual and ecological impacts;
- Condition 10 to control the design, external appearance and materials for structures, fencing and hard surfaces in the scheme to minimise the visual impacts;
- Condition 12 for air quality mitigation to ensure engine emissions do not affect adjacent SSSIs;
- Conditions 3 and 11 for control of both fixed lighting and lights on trains and other plant to mitigate visual and ecological effects, particularly disturbance to bats;
- Condition 9 to limit the times when operations and train movements within the sidings can take place in order to avoid conflict with times when bats are likely to be active;
- Condition 7 for archaeological investigations to be carried out so that any archaeological evidence present on the site is recorded and safeguarded;
- Condition 8 for sustainable surface water drainage (SUDS) and flood risk mitigation measures;
- Condition 14 to ensure site access and vehicle loading and manoeuvring areas meet appropriate standards for safety and capacity;
- Condition 15 for control of noise levels to ensure the amenity of the surrounding areas is acceptably maintained; and

- Condition 13 to make provision for approval of amendments by the local planning authority.
76. Even though it considers the limits on sidings operation specified in Condition 9 are likely to be sufficient to ensure effects on bat movements are adequately mitigated, Natural England has suggested the condition be extended to allow for further refinement in the unlikely event that harmful impacts were found to occur. A suitable draft is included in Document INQ/11a.
77. Natural England accepts that the additional condition is unnecessary but submits that it is desirable to cover a very small residual risk. However, it also acknowledges that Natural England's withdrawal of its objection to the Order is not affected by whether or not the additional condition is applied. It is pertinent that the EPS licence granted by Natural England in due course will cover the HS2 Phase 1 scheme as well as the sidings scheme and is expected to run until 2039, by which time the new sidings will have been operational for almost 20 years. Thus, any residual effects on the bats will have been identified long before the licence controls cease (and it could even be extended if Natural England were to consider it necessary).
78. Under these circumstances it is unnecessary and inappropriate to duplicate controls in a planning condition that are more appropriately included in Natural England's powers as the competent authority under the Habitats Regulations. Such a condition would fail to meet the tests for planning conditions and would be out of line with the intentions of parliament to avoid duplication of controls adequately and more appropriately provided for under other legislation.

Matter 10: Proposals for Funding Scheme (Docs CD/15 and HS2/1/A)

79. The costs of implementing the works, the acquisition of land and undertaking associated works such as environmental mitigation will be met from the funding for the HS2 Phase 1 project as set out in the Funding Statement and Form of Estimate of Costs (Docs CD/8 and CD/10 respectively).

Other Matters Raised by Third Parties (Docs INQ/3 and INQ/22)

80. Several other matters have been raised by third parties and require comment. Firstly, it has been claimed that it is not appropriate to seek powers to construct and operate the sidings scheme by means of a Transport and Works Act Order and that the powers should instead be sought under the Planning Act 2008 (i.e. through the Nationally Significant Infrastructure Project procedures). That argument is incorrect. By virtue of section 25 of the Planning Act 2008 (as amended), that development consent regime does not apply to a railway of less than 2 km in length.
81. The EWR2 scheme has been mentioned in several respects, and the question has been raised as to whether there is space for the double-tracked EWR2 scheme within the existing limits along this stretch of railway. Whilst this is not strictly a matter of any relevance to the current sidings Order scheme, it is confirmed that the Order scheme has been developed in anticipation of the proposals for the EWR2 scheme and will neither preclude nor prejudice the bringing forward of that scheme. The EIA for the Order scheme has taken into account the likely effects of the EWR2 scheme as well as the HS2 Phase 1 scheme in assessing the likely environmental effects.

82. So far as the width of the corridor is concerned, a GRIP2 feasibility study has been carried out into the integration of the EWR2 and HS2 Phase 1 schemes within the restricted Calvert rail corridor, and that work included consideration of how the sidings Order scheme could be constructed and operated despite those constraints (see Doc INQ/13). The study concluded that it will be possible to construct both the HS2 Phase 1 and EWR2 schemes within the combined corridor widths available without encroaching beyond those limits into Sheephouse Wood.
83. Whilst that study indicates there is sufficient space, even if there was not, it would be a matter to be resolved during the detailed design of those 2 schemes and need not concern consideration of the sidings Order scheme. Those constraints do not affect the land required for the sidings, and nor is the Order scheme dependent on the twin-tracking of the Aylesbury Link (which is what the EWR2 scheme comprises over this length). The sidings scheme would operate satisfactorily off either the Aylesbury Link line or the twin-tracked EWR2 lines, and it is entirely neutral as to whether the EWR2 scheme progresses or not.
84. Other issues about Network Rail's current proposals for the EWR2 scheme are more appropriately raised through the current consultation on those proposals or any subsequent application for the necessary powers to construct it. They are not relevant to the current sidings Order proposal. Similarly, the suggestion that consideration of the current sidings Order application be delayed and considered with the EWR2 scheme, when that application is made, is misplaced. The sidings scheme stands alone and is quite separate from the EWR2 scheme.

Case for Supporters

The material points are:

FCC Waste Services (UK) Limited (Docs FCC/1 and FCC/3)

Background to Scheme

85. The HS2 Phase 1 scheme will displace the rail sidings currently used by FCC for delivery of waste to its Strategic Waste Complex, comprising EfW plant and landfill site. These are linked to the sidings by a haul road that runs parallel to the railway line. The Secretary of State for Transport's consistent position has been that, not only must the railway sidings be replaced, but that the ability of FCC to accept spoil and waste should be maintained during and after the HS2 Phase 1 construction period, all in accordance with development plan policies.
86. The HS2 Act 2017 includes provision for replacement sidings to be built to the north of Decoypond Wood, which is north of Sheephouse Wood and opposite the village of Calvert (the scheme known as AP4). This scheme gave rise to substantial objections from local authorities, local residents, FCC and others, and in its evidence to the House of Commons Select Committee FCC sought the relocation of the sidings to the position now proposed in the Order. The Select Committee was sympathetic to FCC's objection and in its Second Special Report noted that "there were clear advantages to local residents and to FCC for the sidings to be located at the identified southern site, without difficulty for the rail project per se" and encouraged the promoter "to concentrate its mind on how to accommodate the protected bat species through alternative planting, connectivity and other mitigation measures" (Doc CD/23).

87. The evidence now put forward shows that the Select Committee was right to anticipate that a scheme could be devised that allowed the preferred southern site to be used without unacceptable ecological impact. HS2 Limited, Natural England, the BBOWT and FCC have worked together to develop the scheme for which a Transport and Works Act Order is now sought.

Statement of Matters, Matter 1: Aims and Need for the Scheme

88. The overall aim of the scheme is to provide suitable replacement railway sidings for FCC with specific aims to:

- provide a facility for the receipt of containerised waste and spoil via open top wagon trains;
- provide equivalent capacity to the existing sidings, which is 8 trains within the constraints of the operating hours limits;
- ensure there is sufficient land available to create operationally efficient sidings;
- ensure that the freight terminal is resilient and self-contained;
- avoid close proximity to sensitive receptors, so as to avoid amenity impacts; and
- ensure that the sidings are reasonably well located within the waste complex for access to both the EfW facility and the landfill site well away from the communities of Calvert and Calvert Green.

Statement of Matters, Matter 6: Impacts on the Natural Environment, including Protected Species and Mitigation Measures

89. FCC does not present detailed evidence on this topic but contributes towards conclusions in respect of the EPS licence required under regulation 53 of the Habitats Regulations. As the Government's adviser for the natural environment, Natural England's advice should attract considerable weight. That advice and its consequences may be summarised as follows:

- a licence would be required for the construction of HS2 Phase 1 and the sidings Order scheme;
- it is likely that such a licence would be granted; and
- in circumstances in which it is likely that such a licence would be granted, then if a planning application is found acceptable on its planning merits, planning permission should normally be granted, and reference is made to the Court judgement, *R. (On the application of Prideaux) v Buckinghamshire County Council* [2013] EWHC 1054 at [96], applying *R. (Morge) v Hampshire CC* [2011] UKSC 2.

90. In reaching its conclusions Natural England has taken into account the requirements of Regulation 53, i.e. that:

- the proposal is for imperative reasons of overriding national importance (the element of Regulation 53(2)(e) relevant in this case);
- there is no satisfactory alternative (Regulation 53(9)(a)); and

- the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range (Regulation 53(9)(b)).
91. Natural England's conclusions are soundly based. The scheme falls squarely within Regulation 53(2)(e) and, as a consequence of its necessity for the HS2 Phase 1 scheme, it is imperative for reasons of overriding national importance. There is also ample evidence that the favourable conservation status of the bats will be maintained through the suite of measures agreed between HS2 Limited and Natural England.
92. There is also no satisfactory alternative. Alternative schemes were considered through the EIA process, including the HS2 Act scheme and several options south of Sheephouse Wood. Notwithstanding its ecologically sensitive location, the advantages of the proposed Order scheme from a performance point of view are significant. Firstly, its location well away from the village of Calvert provides relief to local residents from the noise and disturbance of operational railway sidings close to their properties. This is evidenced by the eloquent submissions made by Cllr Angela Macpherson, the Rt. Hon. John Bercow MP, and the Leaders of BCC and AVDC.
93. Secondly, the scheme would meet FCC's operational requirements whereas the Act scheme would have significant design and operational shortcomings, particularly: insufficient space for efficient sidings with moveable gantry cranes; lack of self-containment in terms of provision for holding trains and run-around facilities, resulting in a need to use the main railway lines for these purposes; and poor location for integration with the waste complex.
94. Thirdly, the Order scheme could be built without adversely affecting the construction programmes for both the HS2 Phase 1 and EWR2 schemes, thus reducing risks to their construction programmes, minimising the construction impact on local communities, and minimising railway safety risks.

Statement of Matters, Matter 8: Justification for Compulsory Purchase

95. It has been demonstrated that the proposed Order scheme is the best option available to replace the existing sidings and that the land rights subject to compulsory purchase would be the minimum required to construct and operate the scheme. There is a compelling case in the public interest.

Statement of Matters, Matter 9: Conditions to be attached to Deemed Planning Permission

96. FCC has been consulted on and supports the draft conditions proposed by HS2 Limited. Natural England has argued for an extension of Condition 9 (hours of operation of the sidings) to include Condition 9.2 (see Doc INQ/11a). However, it acknowledges that it is not a necessary condition and that the withdrawal of Natural England's objection is not contingent on application of the condition.
97. There are 2 reasons why the extra condition is unnecessary: firstly it would duplicate the licencing regime, where control of such matters by Natural England is more appropriately carried out; and secondly, there is no evidence whatsoever that the very minimal overlap of operational hours and bat activity would be likely to lead to any harm to bats, still less any impact on their favourable conservation status.

Other Matters Raised by Third Parties (Docs FCC/2 and FCC/2a)

98. Mr Landells and others raised numerous matters that are outside the scope of the proposed Order scheme, and for completeness FCC has responded to each of them. Consequently, at the inquiry Mr Landells confirmed that he did not oppose the granting of the Order.
99. The matters may be summarised as follows:
- the TWA Order is the appropriate means of securing consent for the scheme;
 - the purpose of the scheme is to replace the sidings lost by FCC, and it is not appropriate to redesign them for wider purposes;
 - the inquiry into the proposed sidings Order is not the place to consider wider ambitions for further East West Rail passenger improvements;
 - it is not necessary or appropriate to delay a decision on the sidings Order application pending further progress on the EWR2 scheme; and
 - emissions from the EfW plant are controlled by the Environmental Permitting process, and the Environmental Permit includes an appropriate condition on emissions; this is not a matter relevant to the sidings Order application as this merely aims to replace the existing delivery capacity.

Cllr Angela Macpherson (Doc CGPC/1)

100. Cllr Macpherson spoke to represent the local parish councils and residents of the 3 parishes affected by the locations of the present sidings, the HS2 Act sidings scheme and the proposed Order scheme.
101. The communities generally benefit from a quiet rural setting but will be affected by the new HS2 lines. Despite the massive infrastructure programmes planned in the area, the communities want to see the quality of life in their village and surrounding area preserved, and it is a matter of public record that the parishes devoted considerable and sustained effort in petitioning both the House of Commons and the House of Lords against the impacts of HS2. The relocation of the Calvert railway sidings has been a significant part of that campaign.
102. The local community has opposed the scheme in the HS2 Act 2017 for replacement sidings as it would bring the rail terminal closer to the village of Calvert and would compound to an unbearable degree the intrusion experienced from the construction and operation of the high speed railway through the local area (including the proposed Infrastructure Maintenance Depot at nearby Steeple Claydon). The Act sidings scheme would generate amenity and environmental impacts of noise, light, dust, odour and air quality from operational railway sidings and associated HGV movements closer to housing. The additional overbridge included in that scheme would also have a significant visual impact close to those houses.
103. The local communities resoundingly endorse the TWA Order scheme which would move the rail waste transfer operations well away from residential areas and into a suitable location close to FCC's main operations area. The benefits to the local communities would be impelling and would considerably alleviate the blight that will be suffered due to the main HS2 Phase 1 scheme.

104. Local residents enjoy the benefits of the areas of beautiful surrounding woodlands and care deeply about their preservation. To that end, the measures described to mitigate effects on important bat species are very reassuring to local residents, and it is welcomed that the scheme would not destroy any ancient woodland or bat roosts.
105. The proposed scheme has been supported by both local councils (BCC and AVDC), our MP the Rt. Hon. John Bercow and by FCC, the operating waste company, and that support has been recently refreshed by letters to the inquiry from the 2 Council Leaders and by another letter from the Rt. Hon. John Bercow MP. It is also emphasised that the decision on the proposed Order scheme should not be further delayed, as that would prolong the uncertainty experienced by local residents and increase the risk of the unacceptable HS2 Act sidings scheme going ahead in its place.
106. We are aware of the technical work that has been done to confirm that the HS2 Phase 1, EWR2 and replacement sidings schemes can be successfully integrated within the necessary land constraints, and residents will continue to have opportunities to express views on the EWR2 scheme through the recently announced consultation process. In conclusion, it is essential that the benefits of the sidings Order scheme be realised to improve the outlook of the local communities affected by the main HS2 scheme.

Written Support (Docs BCC/1, AVDC/1 and CGPC/2 and original letters of support)

107. As reported earlier, 8 letters of support were submitted in response to advertisement of the application in August/September 2016. And as mentioned by Cllr Macpherson, the Leaders of both BCC and AVDC and the Rt. Hon. John Bercow MP have also submitted letters for the public inquiry.
108. The Councils report that their officers have worked with HS2 Limited to address their concerns about the scheme and that a Statement of Common Ground has been agreed amongst the 3 parties (Doc INQ/12). That includes a set of conditions, which is consistent with the set submitted to and discussed at the inquiry.
109. The matters put forward in these letters of support are adequately reported in the summary of Cllr Macpherson's case set out above.

Case for Objectors

The material points are:

Natural England (Docs NE/1, NE/2, NE/3 and NE/4)

110. Natural England is the Government's statutory adviser, established under the Natural Environment and Rural Communities Act 2006 (NERC), to advise on and support the conservation and enhancement of England's landscape and ecological diversity. It has provided advice on the proposed scheme for a number of years, acted as a statutory consultee on the EIA of the proposed scheme and is the licencing body under the Conservation of Habitats and Species Regulations 2010 and the Wildlife and Countryside Act 1981, responsible for regulating the construction and operational activities which may affect European and nationally protected species.

Proposed Scheme's Impact on Bats

111. The proposed scheme is located near a number of SSSIs, including Sheephouse Wood SSSI, designated for its ancient woodland habitats and assemblages of invertebrates and plants. The area is of especially high value for bats and in particular the Bechstein's bat species, amongst the rarest mammals in the UK. The SSSIs and woodlands around the site provide excellent habitat and support a nationally important population of Bechstein's bats and a regionally important assemblage of other woodland bats. Bats are a European Protected Species and are subject to strict protection in UK law under the Habitats Regulations and the Wildlife and Countryside Act 1981.
112. Bats are particularly vulnerable to the impacts that can be caused by linear transport infrastructure such as railways. Without mitigation, the proposed scheme will result in habitat loss and degradation, the loss of bat roosts, disturbance from noise and lighting, severance and loss of connectivity of habitat features, the severance of bat flight lines, and mortality from collisions with vehicles and trains. These potential impacts and concerns about the efficacy of mitigation proposals led to Natural England's objection to the scheme.

Matters of Concern and their Resolution

113. Natural England has assessed the "in combination" effects of the proposed sidings scheme in conjunction with the proposed HS2 Phase 1 and the EWR2 schemes and the recently completed EfW facility. Its objections have focused on 3 key matters:
- ensuring sufficient assessment and mitigation of the cumulative effects of these developments;
 - uncertainty and lack of detail as to the effectiveness of some of the proposed mitigation measures; and
 - the need to ensure the long-term monitoring and management of mitigation measures and, if required, the delivery of remediation in the future beyond the licenced construction period.
114. To that end, Natural England has sought further information from the Applicant along with legally enforceable mechanisms for securing the effective monitoring and mitigation of impacts to ensure favourable conservation status for the species is maintained. The parties are agreed that an EPS licence under Regulation 53 of the Habitats Regulations is required for the construction period but not the operational phase of the scheme.
115. Prior to the commencement of the Inquiry Natural England, HS2 Limited and other relevant bodies continued to discuss the necessary mechanisms, and broad agreement was eventually reached on an appropriate approach. On the day before the Inquiry HS2 Limited produced an updated version of its draft EPS licence application (Docs HS2/3/B1-B7 inclusive), which is considered to be a significant improvement over the information previously provided, and that has enabled Natural England to put forward to the Inquiry 3 key documents on the basis of which it has indicated conditional withdrawal of its objection:

- a "letter of no impediment", dated 19 July 2017 (Doc INQ/14), advising that, subject to certain requirements set out in the letter, there are no impediments to issue of the EPS licence in due course;
 - a joint draft management agreement under sections 7 and 13 of the Natural Environment and Rural Communities Act 2006 (the NERC Agreement) (see Doc INQ/14 appendix), which covers the long-term management and mitigation requirements for the post-construction phase; and
 - a joint statement with HS2 Limited (Doc INQ/15) committing the parties to entering into the NERC Agreement as soon as it is legally possible (i.e. when HS2 Limited acquire the necessary interest in the land).
116. Natural England's principal objections have all been addressed by the Applicant's more recent submissions and proposals, which have taken on board Natural England's advice. The cumulative impacts of all the proposed developments are now addressed by the updated Masterplan, and that Masterplan is to be a "living document" subject to review as necessary, as secured by details in the NERC Agreement, the Masterplan itself and the Letter of No Impediment.
117. Concerns about the novelty and lack of details of the proposed mitigation measures have been addressed, especially in the revised Method Statement, Monitoring Strategy and Masterplan. The NERC Agreement also covers the need for further details of the planting measures. In addition, concerns about monitoring and remediation have been addressed by the revised licence documents and the NERC Agreement. The latter commits HS2 Limited to undertake further remediation measures if considered necessary to ensure favourable conservation status is maintained and to work with and take advice on remediation measures from the Bernwood species sub-group, made up of representatives of all interested parties.
- Need for Amendment of Condition 9*
118. It is not in dispute that, if monitoring identifies harm or potential harm to the protected species, then that will need to be addressed through changes to the mitigation and remediation measures. It is also agreed that, as the Bechstein's bats are particularly vulnerable, if monitoring data shows harm to the bats due to overlap between the working hours of the waste management operations and times of greatest bat activity, preventative steps should be taken immediately rather than waiting for evidence of harm to the favourable conservation status.
119. Proposed Condition 9 places restrictions on the hours when sidings operations can take place to avoid disturbance to bats. However, it is also considered that the Condition should secure remedial action and modification of operating hours if potential harm to the bat population is identified by the monitoring. HS2 Limited does not consider this to be "necessary" such as to meet the tests for planning conditions prescribed in National Guidance. Natural England's expert also acknowledged that such an amended condition may not meet the test of necessity required but that it was a "desirable" condition.
120. The need for a condition which makes provision for modification of the operating hours if necessary has also been argued by the BBOWT who argue that, notwithstanding the additional certainty which the draft NERC Agreement

would secure in respect of remedial action, long-term monitoring is needed along with clarity that operating hours would be restricted for short periods if found necessary. HS2 Limited's position is that such additional provisions in the Condition are not "necessary" and that there are better alternative means of preventing harm to the bat species.

121. Natural England still maintains that the preferred way of securing this additional assurance is by use of a planning condition in line with precautionary and preventative principles. Whilst various promises have been made, it would be desirable to make provision for future precautions regardless of the circumstances that might arise. It has been established in case law (see *R (oao of Champion) v North Norfolk District Council* [2013] EWCA Civ 1657 and *Feeney v Secretary of State for Transport* [2013] EWHC 1238 (Admin)) that it is perfectly permissible to impose a planning condition in order to "eliminate the effects of the residual range of uncertainty between no harm and harm that is unlikely". This follows the precautionary principle. It is noteworthy that the Court of Appeal made express reference to the policy requirement that planning conditions should not be imposed unless they are necessary but, nevertheless, concluded that a condition can be imposed to address the requirements of the Habitats Regulations in comparable circumstances.
122. In this case, the BBOWT is of the opinion that amendment of the condition is necessary. Natural England's position is that it would eliminate the residual risk of harm to the vulnerable bat species if predictions about the effects of operating hours were to prove optimistic. Without prejudice to either party's argument, a jointly prepared draft condition, Condition 9.2, has been put forward for consideration. That amendment is acceptable to Natural England subject to minor amendment to bind any successors to HS2 Limited and FCC. The amendment would achieve a lawful and pragmatic solution to eliminating the residual risk of harm arising from siding operations which are outside the scope of the proposed EPS licence.
123. In conclusion, as explained above, Natural England is prepared to withdraw its objection to the proposal and to support confirmation of the draft Order.

Buckinghamshire, Berkshire and Oxfordshire Wildlife Trust (Docs BBOWT/1, BBOWT/2 and 2a)

124. The BBOWT has been involved in consultation at all stages of development of the HS2 Phase 1 scheme and more recently the proposed replacement sidings scheme for which the TWA Order is sought. During its preparations for the public inquiry its concerns became centred on 2 particular matters (in much the same way as Natural England):
- the robustness of the monitoring proposals proposed by the Applicant to ensure that any disturbance to the bat population is identified; and
 - the robustness of arrangements to enforce remedial action where monitoring indicates that such action is necessary.
125. If suitable arrangements were put in place the arrangements would be acceptable to BBOWT and would address the legal tests. However, without confidence that such measures would be in place, it is considered that the proposed sidings scheme, in combination with the HS2 Phase 1 scheme, would be

- likely to give rise to disturbance to species protected under the Habitats Regulations which could affect their favourable conservation status.
126. On the day before the public inquiry opened the BBOWT received copies of the updated "Bernwood Draft European Protected Species Licence (Bats)" (Doc HS2/3/B1-B7) and a draft of the proposed NERC Agreement between the Applicant and Natural England, though they could not be fully checked before BBOWT's final position statement was written (Doc BBOWT/2).
127. It is acknowledged that the Applicant accepts that there would be a residual level of risk and that a monitoring programme is needed that would lead to remedial action if monitoring shows it is required to maintain the favourable conservation status of the species. That approach would be compliant with the Habitats Directive so long as the decision maker can be certain that the monitoring and subsequent remedial actions are robust and can be secured.
128. The BBOWT is now satisfied that the monitoring programme proposed in the latest revised draft EPS licence application would be sufficient to enable significant disturbance to the bat population to be identified, provided certain detailed issues are addressed. The main outstanding concerns relate to the ability of the monitoring to detect disturbance to bats sufficiently quickly, and with sufficient certainty, to ensure the disturbance is addressed before the favourable conservation status is affected.
129. Continuation of monitoring and provision for remedial action after the EPS licence ceases to be in force is another concern. HS2's document "Consideration of the bat licencing requirements under the Habitats Regulations and maintenance of favourable conservation status" (Doc HS2/3/B4), which is part of the latest draft EPS licence application pack, says that "Planning conditions will be in place also to enforce the Monitoring Strategy once the licence ceases to be in force". However, HS2 Limited now seems to be arguing that the suggested extension of Condition 9, which would secure this, is unnecessary.
130. The latest draft NERC Agreement gives welcome assurance in respect of securing remedial action if monitoring identifies that it is needed. However, the overlap between sidings operations and periods of bat activity at certain times of the year remains a significant concern, and it is essential that clarity be provided that the restriction of operating hours during these relatively short periods could be implemented in the event that monitoring indicated it was necessary. The BBOWT considers that an amendment of Condition 9 is needed to provide the necessary certainty and clarity.
131. Finally, with respect to the proposed acquisition of some of the BBOWT's land at Finemere Wood under the Order's compulsory purchase powers, Heads of Terms of Agreement between the BBOWT and HS2 Limited are provided for information (Doc BBOWT/2a). A reduced land take has been agreed by means of a legal agreement in respect of the Vegetation Management Zone, and the Order is not opposed on grounds of land acquisition.

Mr Christopher Prideaux (Docs PRID/1 and PRID/2)

132. Mr Prideaux is a local landowner and lodged an objection to the proposed Order when it was advertised in August 2016. At that time his objection was expressed in relation to possible effects on the population of bats in the local

area. However, several other matters have also been raised in his submissions for the public inquiry.

133. In relation to bats, comments include:

- the licensable area is not properly related to the Statement of Matters. The bat flight lines are not shown and seem to be discriminatory against some flight lines from Grendon Wood (to the west) because of insufficient green bridges;
- doubts about how the monitoring will be carried out to avoid damage to an important grouping of bats; and
- the bat survey work is incomplete as it is still in progress, and so it is premature to consider the application.

134. Other matters include:

- The access road from the A41 should not be enlarged, and lorry movements along it should not be increased;
- BCC is reviewing its MWCS, so future arrangements for soil movements and disposal are unknown;
- the maps attached to the Bernwood Master Plan are inaccurate;
- transport considerations need to be wider than for mere waste deliveries as poor emissions from the incinerator raise questions about how long it will continue to operate;
- the Western Chord and double tracking of the railway line are relevant matters to be considered;
- the Aylesbury Spur should be an essential part of considerations at the public inquiry as the licensable area (for the EPS licence) extends to include it and its use for waste deliveries is included in the HS2 Phase 1 Derogation Report;
- roadshows for the EWR2 scheme are being held in mid-July 2017, too late for relevance to this inquiry to be appreciated.

Mr Roger Landells (Docs TPC/1, TPC/2 and TPC/3)

135. Mr Landells is Chairman of Twyford Parish Council and, working in conjunction with Dr Eaglen (see below), has raised a number of matters. However, they may be summarised as suggestions as to how the design of the sidings scheme could be improved both for the handling of waste deliveries, for wider use by the rail network as a whole and for the construction of the HS2 Phase 1 scheme. The proposed scheme would not maximise opportunities for wider use of the proposed sidings, which would bring wider benefits. Furthermore, the scope of the EIA has not made adequate allowance for the cumulative effects of all of the rail schemes proposed in the near future, and a further planning review is needed to consider the wider effects and opportunities.

136. Mr Landells' letter to the Leader of BCC (see Doc TPC/3) indicated that he was "appearing at the inquiry not as an objector to the TWA Order per se but to argue that the ultimate client, the Department for Transport, is totally deficient in the manner in which it has created the scope of the project by failing to consult on

the needs of the local community in terms of route planning". At the inquiry Mr Landells confirmed that, notwithstanding the written submissions made, he considered the sidings scheme proposed under the Order to be acceptable but unimaginative and that the Parish Council's objection to it may be considered to have been withdrawn. He indicated that his concerns are now being more properly pursued with the promoters of the EWR2 scheme.

Other Outstanding Objections

137. In response to advertisement of the proposed Order in August 2016, objections were also lodged by the National Trust (re impact on bats) and the Portway Farm Partnership (re effect of land acquisition on the viability of their farm). No further representations have been received from these parties.
138. Dr Eaglen has submitted written representations to the public inquiry objecting to the Order (Docs EAG/1 and EAG/2). The first is similar to that submitted by Mr Landells and is not repeated here. The second argues that it is not appropriate for the scheme to be promoted by means of a TWA Order and that it falls within the definition of a "nationally significant infrastructure project" which requires development consent under the Planning Act 2008. It is argued that it falls within definitions (k), (l) and/or (p) of section 14 of the Act. It is also suggested the scheme could be integrated with the proposed EWR2 scheme and considered under the same development consent procedure.
139. Other comments are that:
- the sidings do not make allowance for the recycling and disposal of soil from the main HS2 Phase 1 project;
 - a suitable signalling and train control arrangement is not included in the scheme; and
 - no mention is made of the rail network authorisation procedures or standards.

Conditions

140. HS2 Limited has submitted a set of proposed planning conditions to be applied to the deemed planning permission sought under section 90(2A) of the 1990. These have been subject to consultation with BCC and AVDC, as well as with FCC, and provisional final proposals were submitted to the public inquiry (Docs INQ/10 and INQ/11 as tracked and clean versions). At the inquiry an open discussion was held into these proposed conditions and, subject to several minor amendments, they were generally agreed. However, a number were subject to particular comment.
141. Firstly, it was agreed that Condition 8 should make more specific reference to the use of sustainable drainage (SUDS) principles. Secondly, for Condition 9, I suggested that the specified times should be expressed in Greenwich Mean Time (GMT) for precision purposes as the date when changes to British Summer Time (BST) occur varies from year to year. Thirdly, it was agreed that references to approvals by the Secretary of State and/or the Highway Authority in Condition 14 should be to the Local Planning Authority. And finally, in the context of Condition 15, it was accepted that the scheme should be designed to avoid increases in operational noise levels greater than 5 dB above background levels rather than 10 dB, albeit that future monitoring should be based on the 10 dB measure. The

set of proposed conditions was subsequently amended to include these changes, and a revised set was submitted to the inquiry on the final day (Doc INQ/11A). These form the basis for the set of recommended conditions in the Annex to this report, with only minor amendments being made to improve their clarity.

142. The only matter on which agreement could not be reached was in respect of Natural England's (and the BBOWT's) suggestion that Condition 9 should be extended to deal with the, albeit unlikely, situation that future sidings operations resulted in harmful effects to the bat population even though the time limits set in that condition were being met. Draft Condition 9.2 has been included with the final set of suggested conditions and would aim to address that situation by requiring further operational mitigation measures, including possible changes to the operating times in Condition 9. The parties' arguments for and against the inclusion of draft Condition 9.2 are reported in their case summaries above.
143. Whilst HS2 Limited's argument that the suggested additional condition would not meet the test of necessity for the imposition of planning conditions is entirely reasonable and, in cross examination, Natural England's expert witness accepted that the condition was "desirable" rather than absolutely "necessary", I recognise that that witness is an expert on bats rather than planning matters. I find the arguments to be finely balanced.
144. It is Government policy that planning matters should not duplicate controls more appropriately applied through other legislation, and in this case much control could be effected by Natural England through its powers under the Habitats Regulations. However, there is also legal precedent for the use of planning conditions in similar circumstances to eliminate the effects of the residual range of uncertainty between no harm and harm that is unlikely. In this case the rarity of the Bechstein's bat and the importance attached to ensuring the maintenance of their favourable conservation status makes it essential to eliminate as much risk as reasonably possible. Regardless of other possible control mechanisms, the suggested Condition 9.2 would do that. Consequently, I consider it to be a condition that is necessary.
145. In conclusion, I consider the set of conditions included in the Annex, including Condition 9.2, to meet the tests prescribed for planning conditions and to be necessary and appropriate for imposition on the deemed planning permission.

Inspector's Conclusions

[Numbers in square brackets indicate the relevant paragraphs of the report.]

146. I have considered the issues relevant to the Transport and Works Act Order and the deemed planning permission applications together as they overlap. The key matter in dispute amongst the various parties has been the effect of the proposed development on the local bat population, and in particular the rare Bechstein's bat species, and I deal with that matter first. I then consider the other matters on which the Secretary of State indicated he particularly wished to be informed, followed by several other topics raised by third parties.

Effects on Bats, including Mitigation Measures

147. It is common ground amongst all parties that the area around the proposed site of the sidings is of especially high value for woodland bats and in particular the Bechstein's bat species, which are amongst the rarest mammals in the UK. Detailed studies have been carried out to assess the potential cumulative effects of the proposed sidings and HS2 Phase 1 schemes and the EWR2 scheme also now being promoted. It is also common ground amongst all parties that significant adverse effects on the assemblage of bat species could be acceptably avoided, provided an array of mitigation measures and controls were implemented. [18, 19, 46, 49-52, 54, 111]

148. Natural England, the Buckinghamshire, Berkshire and Oxfordshire Wildlife Trust (BBOWT) and several other parties originally objected to the Order because of concerns about the effects on bats, and over the last few months HS2 Limited has worked to try to resolve these concerns. The key concerns were identified as: ensuring sufficient assessment and mitigation of the cumulative effects of the 3 rail schemes; uncertainty and lack of detail as to the effectiveness of some of the proposed mitigation measures; and the need to ensure long-term monitoring and management of the mitigation measures, and the delivery of remediation in the future if found to be needed. These have been addressed by the provision of further information and by the development of legally enforceable mechanisms for securing effective long-term monitoring and additional mitigation or remediation measures, if necessary, to ensure favourable conservation status for the species is maintained. [61, 66, 112-115, 124, 125, 128, 132, 133]

149. Natural England has confirmed that its principle objections have now been addressed and that it conditionally withdraws its objection. Unfortunately the BBOWT representative was unable to attend the inquiry but he did provide an up to date statement on the Trust's position immediately prior to the inquiry. That position was very similar to that of Natural England and, whilst I cannot be absolutely sure, it seems likely that the final proposals submitted by HS2 Limited would have met with the Trust's approval in the same way that they did for Natural England. [62, 65, 115-117, 123, 126, 127]

150. The key last minute submission was a revised (and much improved) draft application pack submitted to Natural England for a European Protected Species (EPS) Licence in respect of bats. All species of bats are protected (as European Protected Species) under UK legislation through the Conservation of Habitats and Species Regulations 2010 (the Habitats Regulations) and the Wildlife and Countryside Act 1981, and it is an offence to deliberately disturb them or to damage or destroy a breeding site or resting place unless a licence has been

- granted by the competent authority (Natural England) under Regulation 53. [53, 55, 115]
151. Regulation 53 permits a licence to be granted under certain circumstances, which have become known, and established in law, as the 3 tests. In this case the relevant elements are: "the proposal is for imperative reasons of overriding public interest" (sub-paragraph 2(e) of Regulation 53); "that there is no satisfactory alternative" (sub-paragraph 9(a) of regulation 53); and that "the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range" (sub-paragraph 9(b) of Regulation 53). The documents that make up the draft EPS licence application pack address these matters. [53, 55, 89, 90]
152. The first test is met as the proposed sidings are needed to replace existing sidings that will be displaced by the lines for the HS2 Phase 1 scheme, which is acknowledged in national policy to be an essential improvement to the national rail infrastructure to meet growing demand for travel. The HS2 Act includes provision for replacement sidings as part of the HS2 Phase 1 scheme as they are an integral part of operations at the Strategic Waste Complex. There is no dispute that the sidings scheme is necessary to enable the HS2 Phase 1 scheme to proceed for imperative reasons of overriding public interest. [56, 57, 91]
153. As for a satisfactory alternative, a number of alternative alignments were considered for the HS2 Phase 1 scheme and the adopted route was selected as having the least environmental impact. Several alternative locations and arrangements for the replacement sidings have also been considered, including the sidings scheme included in the HS2 Act 2017. The proposed Order scheme would have far less environmental impact than the Act scheme and is strongly supported by many local people, as evidenced by submissions from Buckinghamshire County Council, Aylesbury Vale District Council, several Parish Councils and the Rt Hon John Bercow MP, the constituency Member of Parliament). The House of Commons Select Committee for the HS2 Act also expressed a strong preference for the sidings location proposed under this Order rather than that in the Act itself. There is no dispute that there is no satisfactory alternative. [4, 8, 15, 25, 58, 92, 93, 102, 103]
154. Finally, I turn to the "favourable conservation status" test. The latest proposals for the monitoring strategy and for potential mitigation measures if impacts on the woodland bats were identified now provide confidence that the species would be maintained at favourable conservation status. This has been achieved by devising a control mechanism that can be relied upon and enforced. [60]
155. Natural England has advised that a European Protected Species licence would be required for the construction phase of the scheme (in fact, a combined licence for the sidings and HS2 Phase 1 scheme) but not for subsequent operation of the sidings. In the light of the latest draft application pack and its conclusion that the 3 tests would be met, Natural England has now confirmed that it sees no impediment to the grant of a licence for the construction phase, subject to HS2 Limited entering into an agreement under sections 7 and 13 of the Natural Environment and Rural Communities Act 2006 (the NERC Agreement) and to several detailed requirements, which the parties agree would be readily complied with. HS2 Limited is unable to enter into the NERC Agreement until it owns the land concerned. However, it has entered into an agreement to do so as soon as it

is legally possible. The NERC Agreement would cover the long-term management and mitigation requirements for the post-construction phase. [54, 59, 62, 63, 89, 114, 130]

156. I consider Natural England's conclusions to be soundly based, and I see no reason to disagree with them. On the basis that the EPS licence would be likely to be granted, then there would be no reason to refuse the Order or planning application on this ground. [64, 89]

Other Matters on which the Secretary of State wished to be informed

157. I now turn to each of the matters specified as of particular interest to the Secretary of State. [5, 6]

Matter 1: Aims and Need for the Scheme

158. The new sidings are needed to replace those displaced by the HS2 Phase 1 lines. They provide facilities for deliveries of waste and spoil to the Calvert Landfill site and the Greatmoor Energy from Waste facility, which together make up a strategic waste complex recognised in the Buckinghamshire Minerals and Waste Core Strategy 2012. The Strategy places considerable importance on the increased use of rail deliveries to the complex. [21, 22, 85]
159. The proposed new sidings would aim to replicate the capacity of the existing rail sidings, which currently accept 4 trains per day but have capacity for up to 8 trains per day. The 4 trains per day processed at present represent some 250 fewer articulated lorry vehicle movements per day on the local road network. The new freight terminal would be resilient and self-contained and would avoid the need for trains to manoeuvre on the main lines before entering and after leaving the sidings. [23, 88]

Matter 2: Alternatives Considered

160. The Order scheme has been developed as a better alternative to the sidings replacement scheme included in the HS2 Act 2017, which was subject to widespread objections by the local communities and their representatives, and which was criticised by the House of Commons Select Committee when it was considering the HS2 Act. The Order scheme would move the noise and disturbance of the sidings well away from the village of Calvert, be closer to and more conveniently located for the waste complex, have better facilities for unloading the trains, and have more efficient arrangements for connections to the main railway lines. Its construction could also be more efficiently incorporated into the construction timetable for the HS2 Phase 1 scheme (and the EWR2 scheme) thus minimising the overall construction timetable (and nuisance to the local community) and associated health and safety risks. [15, 17, 24-28, 86, 92-94, 101, 102, 107, 108]
161. The site chosen is the best available, and several alternative layouts have been considered. The proposed scheme would have the least effect on the surrounding area, affect less agricultural land and have fewer landscape and visual effects. There has been no dispute that it is the best scheme available. [29, 30, 87]

Matter 3: Consistency with Planning Policy

162. The scheme is in line with national and local policies to promote the use of rail as a low carbon alternative for freight movement. In particular Policy CS11 of the Buckinghamshire Minerals and Waste Core Strategy allocates the Calvert and Greatmoor facilities as a Strategic Waste Complex with its locational advantage as a rail link site, and Policy CS7 safeguards the complex as a site for waste purposes. The Buckinghamshire Local Transport Plan 4 also recognises the important role of rail freight in keeping the County thriving and attractive. [31-34]

163. The Applicant has addressed compliance with many other relevant development plan policies but, as these are not in dispute, I have not reproduced them further in this report. My conclusion is that the proposed scheme would be compliant with the relevant development plan and national policies.

Matter 4: Impacts on Landowners and Tenants, Local Residents, General Public, Utility Providers and Statutory Undertakers

164. Five parties have landowner or tenant interests in the land, the largest by far being FCC Waste Services (UK) Limited, the company that owns the waste complex and which is fully supportive of the scheme. Network Rail owns the main rail corridor and is also supportive of the scheme. The Portway Farm Partnership has an Agricultural Holdings Act tenancy on Upper Greatmoor Farm, one of 3 farms that it operates, though the land is owned by FCC. Part of the farm would be subject to compulsory purchase, and the Partnership objected to the Order on grounds of business viability, vehicular access and effects on land drains. However, the terms of a tripartite agreement with HS2 Limited and FCC have recently been agreed. [14, 35-37]

165. The fourth landowner is the BBOWT, which owns Finemere Wood and runs it as a nature reserve. Although an objector in respect of effects on bats, the Trust does not object to the grant of powers necessary for the scheme and has provided a Heads of Terms Agreement making arrangements for future management of the land. Finally, only a very small area of the 5th landowner's land would be affected (Mr Hodges), and he has raised no objection. [14, 35, 38, 131]

166. With regard to effects on local residents and the general public, the scheme has been designed to minimise its landscape and visual impacts and includes extensive use of mitigation planting. Noise during construction would be controlled through measures in the Code of Construction Practice, which would be required by condition, and once operational the better location of the sidings would bring considerable benefits to the amenity of residents of Calvert. [39-41, 100, 101, 103]

167. Three utility providers and statutory undertakers registered objections to the scheme on account of possible effects on their plant and equipment but all are now satisfied with assurances given and have withdrawn their objections. [42]

Matter 5: Measures to Mitigate any Adverse Effects

168. Mitigation measures for the landowners and tenants affected by the scheme have been built into the various draft agreements, and measures for the

protection of gas and electricity undertakers were included in the HS2 Act 2017. [43]

169. Wider mitigation measures would be implemented and controlled through arrangements under the Order to limit the land to be used, through conditions attached to the deemed planning permission, and through existing legislation for environmental protection. [44, 45]

Matter 6: Impacts on the Natural Environment, including Protected Species, and Mitigation Measures

170. The Environmental Statement provides an assessment of the likely effects of the scheme on the natural environment, including in combination effects with the main HS2 Phase 1 scheme and the proposed EWR2 scheme. Terrestrial and aquatic habitat loss was identified, including effects on the great crested newt population and a pair of breeding barn owls. However, the main environmental effects were identified as being on the assemblage of woodland bats in the area, including the potential for disturbance to the maternity colonies of Bechstein's bats, a particularly rare species. [46-48, 135]

171. A range of mitigation measures would be proposed, including:

- Carrying out construction work during the normal working day so far as possible;
- Replacement of waste trucks with lower emission vehicles to reduce risks of air pollution affecting the Sheephouse Wood SSSI;
- Improved alignment and width for the Bridleway GUN/28 accommodation green overbridge to enable bats to use this key flight line;
- operational timing restrictions to minimise effects on bats;
- a lighting strategy designed to avoid illumination of areas where bats are most likely to be active;
- temporary measures such as mobile hedgerows;
- 7 hectares of additional woodland planting which when established will strengthen flight lines, foraging and roosting habitats for bats;
- Environmental mitigation barriers (noise/light) to avoid operations affecting bats and birds; and
- Additional ponds and areas of rough grassland to compensate for the loss of a pond and to provide additional habitat for amphibians and reptiles. [50, 104]

172. I have reported above in respect of possible effects on the bat population and will not repeat that account under this heading. Sufficient measures and control procedures have been devised so as to satisfy Natural England that the scheme would meet the necessary tests specified in the Habitats Regulations, including that the scheme would not be detrimental to the maintenance of the population of bats in a favourable conservation status in their natural range. Accordingly, Natural England have confirmed that they see no impediment to the grant of an EPS licence under Regulation 53 of the Habitats Regulations for the construction

of the works, subject to several requirements which both Natural England and HS2 Limited advise can readily be met. [115-117]

173. No evidence has been submitted that would lead me to question Natural England's advice, and I conclude that the scheme would include sufficient mitigation and control measures to ensure that no significant harm would be caused to the bat population. Under these circumstances, the presence of the bat population would not justify the refusal of planning permission.

Matter 7: Adequacy of Environmental Statement

174. The Environmental Impact Assessment was carried out in accordance with the scoping opinion issued by the TWA Unit of the Department for Transport, and the Environmental Statement addresses all of the construction and operational impacts of the scheme and meets all of the requirements of the EIA Regulations. The work has been carried out by suitably qualified consultants, and I consider that the Environmental Statement is thorough and adequate for its purpose. I am satisfied that the statutory procedures for the preparation of the Environmental Statement have been followed. [67-69]

Matter 8: Justification for Compulsory Purchase

175. There have been no objections that the Order would involve land that is not the minimum necessary for the construction, operation and maintenance of the proposed scheme. The amount of land to be acquired or used is defined in the Order by the Limits of Deviation, and HS2 Limited has reached agreements with all of the landowners concerned. [13, 14, 70,71]
176. As described above in respect of the EPS licence application, there is a compelling case in the public interest for the construction and operation of the proposed scheme. It is essential that the replacement sidings be provided as the existing sidings will be displaced by the new railway lines for the HS2 Phase 1 scheme. I conclude that compulsory purchase of the land and rights specified in the Order is justified in the public interest. [72, 73, 95]

Matter 9: Conditions to be attached to Deemed Planning Permission

177. HS2 Limited has put forward a set of planning conditions considered suitable for attachment to the deemed planning permission, and these were discussed at the public inquiry, leading to modification of some. An additional condition has also been proposed by Natural England and supported by the BBOWT which aims to eliminate as much risk as possible from the prospect of favourable conservation status being maintained for the population of bats. [74-77, 96, 118-122, 129, 130, 140-142]
178. I have dealt with conditions in some detail in the main part of my report and will not repeat that here. I have concluded that the additional condition proposed by Natural England would be worthwhile and necessary and that the set of conditions included in the Annex, including additional condition 9.2, would meet the tests prescribed for planning conditions for imposition on the deemed planning permission. [77, 78, 95, 143-145]

Matter 10: Proposals for Funding Scheme

179. Finally, it is reported that all costs for the scheme would be met from the funding for the HS2 Phase 1 project. Thus sufficient funding would be available to implement the scheme without delay. [79]

Other Topics Raised by Third Parties

180. Several other topics have been raised by third parties. However, most of them amount to queries about detailed design matters or to concerns about the wider rail network in the area, particularly the proposals currently being developed for the EWR2 scheme. The control mechanisms that would be applied to the proposed scheme, including conditions imposed on the planning permission, would provide appropriate means of ensuring suitable detailed design were adopted. [80, 99, 134, 135, 139]

181. The EWR2 scheme has little direct relevance to the proposed sidings scheme as the latter stands alone and is entirely neutral as to whether the EWR2 scheme progresses or not. It would operate satisfactorily off either the existing Aylesbury Link line or the twin-tracked EWR2 lines. Feasibility studies have also demonstrated that the HS2 Phase 1 scheme and the twin-tracked EWR2 scheme can be accommodated within the existing rail corridor along this stretch of line and they would not encroach on the land proposed for the sidings scheme. It is reported that the public consultation process for the EWR2 scheme has recently been announced, and that is the appropriate forum for concerns about that scheme to be raised. [81-84, 99, 106, 134, 136]

182. It is correct to say that the EWR2 scheme is relevant so far as the assessment of environmental effects is concerned, and the Environmental Statement submitted for the sidings scheme has taken into account the in-combination effects of that scheme as well as the HS2 Phase 1 and railway sidings schemes. Such cumulative effects have been suitably taken into account. [81]

183. It has also been submitted that it is not appropriate to seek powers to construct and operate the sidings scheme by means of a Transport and Works Act Order and that the powers should instead be sought under the Nationally Significant Infrastructure Project procedures of the Planning Act 2008. However, Section 25 of the 2008 Act specifies that those procedures do not apply to a railway of less than 2 km in length, and so they are not applicable to the sidings scheme. [80, 99, 138]

184. As an alternative it has been suggested that the sidings scheme could be integrated with the proposed EWR2 scheme and considered under the same development consent procedure. However, that would be unnecessary and inappropriate as the schemes are quite separate. Furthermore, that would delay the sidings scheme, prolonging the uncertainty experienced by local residents and increasing the risk of the less popular HS2 Act sidings scheme going ahead in its place, an option that the House of Commons Select Committee did not favour. [105, 138]

185. I conclude that these other topics raised by third parties do not materially affect my main conclusions.

Overall Conclusions

186. In reaching my conclusions I have taken into account the Environmental Statement and the further environmental information submitted. I have concluded above in respect of the key topic at issue, the possible effects on the population of woodland bats, and on the matters particularly identified by the Secretary of State. Overall, I conclude that the Order is justified on its merits and that there is a compelling case in the public interest for making it.
187. The scheme accords with planning policy at all levels, and there is strong support for it from the County, District and Parish Councils, the residents of the village of Calvert, the local Member of Parliament (the Rt Hon John Bercow MP), and the company that operates the current railway sidings. There would be clear benefits in providing the replacement sidings at this location rather than that included in the HS2 Act 2017, and the benefits of the scheme would far outweigh the residual risks of environmental harm and the limited private losses.
188. Funding is available for the scheme and there is no evidence of any impediments to its timely implementation. Amendments to the draft Order submitted with the application have been proposed to improve clarity and as a result of the HS2 Act gaining Royal Assent; these have not been disputed and appear to be reasonable. [16]
189. In the light of all of the above, I conclude that the Order as modified should be made. For the same reasons I also conclude that the deemed planning permission should be granted, subject to appropriate conditions as identified above.

Recommendations

190. I recommend that:
- (a) The High Speed Rail (London – West Midlands) (Greatmoor Railway Sidings Etc) Order 201[x] be made, subject to the modifications as incorporated in the revised draft Order at Document INQ/8 and listed in the Schedule of Amendments to the draft Order at Document INQ/9.
 - (b) A Direction be made granting deemed planning permission for the works authorised by the Order, subject to the conditions set out in the Annex to this report, including Condition 9.2.

Clive Nield

Inspector

APPEARANCES

FOR THE APPLICANT:

Mr Tim Mould QC Assisted by Ms Jacqueline Lean of Counsel	Instructed by Eversheds Sutherland.
He called:	
Mr Peter Miller BA	Environment Director, HS2 Limited.
Mr Tim Smart, BA(Eng), MA(Eng), CEng, MICE	Director for High Speed Rail, CH2M.
Ms Gillian Sinclair, BSc(Hon), MSc(Hon)	General Manager, Greatmoor EfW Plant, FCC Waste Services (UK) Limited.
Ms Ruth Jackson, BA, MRUP, MRTPI	Ruth Jackson Planning Limited.
Dr Peter Shepherd, BSc, PhD, MCIEEM	Partner, Baker Shepherd Gillespie LLP.

FOR FCC WASTE SERVICES (UK) LIMITED:

Ms Melissa Murphy of Counsel She called:	Instructed by DAC Beachcroft LLP.
Mr David Baker, FRICS, FCILT, MCI Arb	Partner, Baker Rose Consulting LLP.

FOR NATURAL ENGLAND:

Ms Sarah Sackman of Counsel She called:	Instructed by Richard Broadbent, Solicitor, Natural England.
Ms Kathleen Covill, BA, MSc, MA, Dip TransP	Project Manager HS2 for Natural England.

INTERESTED PERSONS:

SUPPORTERS

Cllr Angela Macpherson	Representing Calvert Green Parish Council and other local residents.
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OBJECTORS

Mr Christopher Prideaux Mr Roger Landells	Local landowner. Chairman, Twyford Parish Council.
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CORE DOCUMENTS

- CD/1 Order Application, August 2016.
- CD/2 Proposed High Speed Rail (London – West Midlands)(Greatmoor Railway Sidings Etc.) Order, August 2016.
- CD/3 Explanatory Memorandum, August 2016.
- CD/4 Statement of Aims to which the Application Relates, August 2016.
- CD/5 Consultation Report, August 2016.
- CD/6 Lists of Consents, Permissions and Licences required under other Enactments, August 2016.
- CD/7 Environmental Statement (incorporating the Secretary of State’s Scoping Opinion), August 2016.
- CD/8 Funding Statement, August 2016.
- CD/9 Works and Land Plans and Public Rights of Way Plans and Sections, August 2016.
- CD/10 Estimate of Costs, August 2016.
- CD/11 Book of Reference, August 2016.
- CD/12 Request for a Planning Direction together with draft proposed Conditions, August 2016.
- CD/13 Planning Direction Drawings, August 2016.
- CD/14 Planning Statement, August 2016.
- CD/15 Statement of Case by HS2 Limited, December 2016.
- CD/16 Town and Country Planning Act 1990, section 90(2A).
- CD/17 Transport and Works Act 1992.
- CD/18 Transport and Works (Inquiries Procedure) Rules 2004, July 2004.
- CD/19 Transport and Works (Applications and Objections Procedure)(England and Wales) Rules 2006, June 2006.
- CD/20 High Speed Rail: Investing in Britain’s Future – Decisions and Next Steps, January 2012.
- CD/21 High Speed Rail: Investing in Britain’s Future – Consultation Document, February 2011.
- CD/22 Post Consultation Route Engineering, January 2012.
- CD/23 House of Commons Select Committee Second Special Report of Session 2015-16, February 2016.
- CD/24 FCC Proposed Alternative Sidings Sift – comparison of parallel and splayed layouts, December 2016.
- CD/25 Buckinghamshire Minerals and Waste Core Strategy Development Plan Document, November 2012.
- CD/26 National Planning Policy Framework, March 2012.
- CD/27 National Planning Policy for Waste, October 2014.
- CD/28 Aylesbury Vale District Local Plan, January 2004.
- CD/29 Draft Aylesbury Vale Local Plan (AVLP), Summer 2016.
- CD/30 Buckinghamshire Minerals and Waste Local Plan 2004-2016, June 2006.
- CD/31 Buckinghamshire Local Transport Plan 4, adopted June 2016.
- CD/32 Buckinghamshire Freight Strategy, September 2010.
- CD/33 Draft Code of Construction Practice, November 2013.
- CD/33A Code of Construction Practice, February 2017.

INQUIRY DOCUMENTS (Documents submitted during the Inquiry are in <i>italics</i>)	
INQ/1	Inspector's Pre Inquiry Note.
INQ/2	First draft of Inquiry Programme, 8 June 2017.
INQ/2a	Second draft of Inquiry Programme, 29 June 2017.
INQ/2b	Further draft of Inquiry Programme, 6 July 2017.
<i>INQ/3</i>	<i>Opening Submissions on behalf of HS2 Limited.</i>
<i>INQ/3a</i>	<i>Clip of legal materials, submitted with HS2 Opening Submissions.</i>
INQ/4	HS2 Limited List of Appearances.
INQ/5	Compliance Pack.
INQ/6	HS2 Limited Response to Statement of Matters.
INQ/7	Order amended for Inquiry (July 2017) – Tracked Version.
INQ/8	Order amended for Inquiry (July 2017) – Clean Version.
INQ/9	Paper of Amendments to the Order.
INQ/10	Conditions proposed for deemed planning permission, amended for Inquiry (July 2017) – Tracked Version.
INQ/11	Conditions proposed for deemed planning permission, amended for Inquiry (July 2017) – Clean Version.
<i>INQ/11a</i>	<i>Conditions Proposed for Deemed Planning Permission, with final amendments proposed at Inquiry.</i>
<i>INQ/11b</i>	<i>Plan referred to in Condition 3.2 Lighting.</i>
INQ/12	Statement Of Common Ground between Aylesbury Vale District Council, Buckinghamshire County Council & HS2 Limited.
<i>INQ/13</i>	<i>Integration Report – GRIP2 Feasibility Study, May 2016.</i>
<i>INQ/14</i>	<i>Regarding a Letter of No Impediment For The Phase 1 Bernwood Bat Licence (Legislation: The Conservation of Habitats and Species Regulations 2010 (As Amended)) – Natural England's letter dated 19 July 2017.</i>
<i>INQ/15</i>	<i>Joint statement from Natural England and High Speed Two (HS2) Limited 18 July 2017.</i>
<i>INQ/16</i>	<i>HS2 Ltd -Variations to draft conditions 8 and 9 notes, 19 July 2017.</i>
<i>INQ/17</i>	<i>HS2 Ltd Highways Assurance Letter, 19 July 2017.</i>
<i>INQ/18</i>	<i>Email from Buckinghamshire County Council regarding the HS2 Ltd Highways Assurance Letter, 19 July 2017.</i>
<i>INQ/19</i>	<i>Note from High Speed Two (HS2) Limited in relation to the "No Impediment" letter from Natural England to the Inspector dated 19 July 2017.</i>
<i>INQ/20</i>	<i>Note re. Agreement with Portway Farm Partnership, 20 July 2017.</i>
<i>INQ/21</i>	<i>Response by HS2 Limited to the update submitted by BBOWT.</i>
<i>INQ/22</i>	<i>Closing Submissions on behalf of HS2 Limited.</i>

HS2 LIMITED DOCUMENTATION	
HS2/1/A	Proof of evidence of Peter Miller, Environment
HS2/1/B	Part 1 of 2 - appendices to proof of evidence of Peter Miller, Environment
HS2/1/B	Part 2 of 2 - appendices to proof of evidence of Peter Miller, Environment
HS2/1/C	Summary proof of evidence of Peter Miller, Environment
HS2/2/A	Proof of evidence of Tim Smart, Railway Engineering
HS2/2/B	Appendices to proof of evidence of Tim Smart, Railway Engineering
HS2/2/C	Summary proof of evidence of Tim Smart, Railway Engineering
HS2/2/D	Rebuttal proof of evidence of Tim Smart, Railway Engineering - to Christopher Prideaux
HS2/3/A	Proof of evidence of Dr Peter Shepherd, Bat Ecology
HS2/3/B	Part 1 of 2 - appendices to proof of evidence of Dr Peter Shepherd, Bat Ecology
HS2/3/B	Part 2 of 2 - appendices to proof of evidence of Dr Peter Shepherd, Bat Ecology
	Final EPS Licence Application Documents, July 2017 (B1-B7):
HS2/3/B1	Bernwood Masterplan (Appendix 4) [S/S Shepherd Appendix 7].
HS2/3/B2	Monitoring Strategy (Appendix 5) [ditto].
HS2/3/B3	Application Form [ditto].
HS2/3/B4	Derogation Report (Appendix 9) [ditto].
HS2/3/B5	Reasoned Statement (Appendix 10) [ditto].
HS2/3/B6	Method Statement and Figures (Appendix 11) [ditto].
HS2/3/B7	Work Schedule (Appendix 12) [ditto].
HS2/3/C	Summary proof of evidence of Dr Peter Shepherd, Bat Ecology.
HS2/3/D	Rebuttal proof of evidence of Peter Shepherd, Bat Ecology - to Christopher Prideaux.
HS2/3/E	Rebuttal proof of evidence of Peter Shepherd, Bat Ecology - to Berkshire, Buckinghamshire & Oxfordshire Wildlife Trust.
HS2/4/A	Proof of evidence of Ruth Jackson, Planning.
HS2/4/B	Appendices to proof of evidence of Ruth Jackson, Planning.
HS2/4/C	Summary proof of evidence of Ruth Jackson, Planning.
HS2/4/D	Rebuttal proof of evidence of Ruth Jackson, Planning - to Berkshire, Buckinghamshire & Oxfordshire Wildlife Trust.
HS2/4/E	Lighting boundary plan referred to in Table 1 of rebuttal proof of evidence of Ruth Jackson, Planning - to Berkshire, Buckinghamshire & Oxfordshire Wildlife Trust.
HS2/5/A	Proof of evidence of Gillian Sinclair, FCC Historic and Existing Operations and Further Need.
HS2/5/B	Part 1 of 2 - appendices to proof of evidence of Gillian Sinclair, FCC Historic and Existing Operations and Further Need.
HS2/5/B	Part 2 of 2 - appendices to proof of evidence of Gillian Sinclair, FCC Historic and Existing Operations and Further Need.
HS2/5/C	Summary proof of evidence of Gillian Sinclair, FCC Historic and Existing Operations and Further Need.

FCC WASTE SERVICES (UK) LIMITED DOCUMENTATION	
FCC/1	Proof of evidence of David Baker.
FCC/1a	Summary proof of evidence of David Baker.
FCC/2	<i>Roger Landells' Objection - Observations made by David Baker for FCC and HS2 Limited, 19 July 2017.</i>
FCC/2a	<i>Response from David Baker to Roger Landells' email of 19 July 2017, dated 20 July 2017.</i>
FCC/3	<i>Closing Submissions on behalf of FCC.</i>

CALVERT GREEN PARISH COUNCIL DOCUMENTATION	
CGPC/1	<i>Statement by Councillor Macpherson.</i>
CGPC/2	<i>Letter of support from RT Hon John Bercow MP, 17 July 2017, to Councillor Macpherson.</i>

NATURAL ENGLAND DOCUMENTATION

NE/1	Proof of evidence of Kathleen Covill.
NE/1a	Annex 3 Draft HS2 Ltd bat licence documents - 1. Method Statement and associated figures.
NE/1b	Annex 3 Draft HS2 Ltd bat licence documents - 2. Application form.
NE/1c	Annex 3 Draft HS2 Ltd bat licence documents - 3. Draft Master Plan European Protected Species Mitigation Licence.
NE/1d	Annex 3 Draft HS2 Ltd bat licence documents - 4. Derogation Report.
NE/1e	Annex 3 Draft HS2 Ltd bat licence documents - 5. Monitoring Strategy 2017.
NE/1f	Annex 3 Draft HS2 Ltd bat licence documents - 6. Draft Work schedule.
NE/1g	Annex 3 Draft HS2 Ltd bat licence documents - 7. Draft Reasoned Statement.
NE/1h	Annex 3 Draft HS2 Ltd bat licence documents - 8. Lighting Strategy.
NE/2	Statement of Common Ground between Natural England and HS2 Limited, June 2017.
NE/3	Supplementary proof of evidence of Kathleen Covill.
NE/4	<i>Closing Submissions on behalf of Natural England.</i>

BUCKINGHAMSHIRE, BERKSHIRE & OXFORDSHIRE WILDLIFE TRUST DOCUMENTATION	
BBOWT/1	Proof of evidence of Matt Jackson.
BBOWT/2	Updated statement by Matt Jackson, 17 July 2017.
BBOWT/2a	Heads of Terms for Agreement - Subject to Contract.

MR PRIDEAUX DOCUMENTATION	
PRID/1	Proof of evidence of Mr Prideaux, 17 June 2017.
PRID/2	Further evidence of Mr Prideaux, 2 July 2017.

TWYFORD PARISH COUNCIL DOCUMENTATION (Mr Landells)	
TPC/1	Proof of evidence of Twyford Parish Council (objection withdrawn orally 19 July 2017).
TPC/2	<i>Email from Mr Landells, 19 July 2017, to Mr Baker regarding Observations made by him for FCC and HS2 Limited.</i>
TPC/3	Email from Mr Landells to Buckinghamshire CC, 12 July 2017, subsequently forwarded to Secretary of State by Dr Eaglen.

DR EAGLEN DOCUMENTATION	
EAG/1	Written representation by Dr Eaglen, 2 July 2017.
EAG/2	Further written representation by Dr Eaglen, 3 July 2017.

BUCKINGHAMSHIRE COUNTY COUNCIL DOCUMENTATION	
BCC/1	Written representation of support by Buckinghamshire County Council.

AYLESBURY VALE COUNCIL DOCUMENTATION	
AVDC/1	Written representation of support by Aylesbury Vale District Council.

NETWORK RAIL DOCUMENTATION	
NR/1	Written representation of support by Network Rail.

NATIONAL GRID GAS PLC & NATIONAL GRID ELECTRICITY TRANSMISSION PLC DOCUMENTATION	
NG/1	Letter of withdrawal of objection, 31 May 2017.

WESTERN POWER (EAST MIDLANDS) PLC DOCUMENTATION	
WP/1	Letter of withdrawal of objection, 12 July 2017.

ANNEX of Conditions

CONDITIONS PROPOSED TO BE ATTACHED TO THE DIRECTION FOR DEEMED PLANNING PERMISSION DATED 9 AUGUST 2016

In these conditions, unless the context otherwise requires:

HS2 Act	<i>means the High Speed Rail (London – West Midlands) Act 2017;</i>
Development	<i>means the works authorised by the Order and this Direction as to deemed planning permission;</i>
Environmental Statement	<i>means the environmental statement submitted with the application for the Order;</i>
External Lighting	<i>means all lighting equipment other than those that are temporary lighting or lighting located within a building comprised within the Development;</i>
Greatmoor Railway Sidings Mitigation Plan	<i>means Planning Direction Drawing Sheet 13;</i>
Heavy Goods Vehicle (HGV)	<i>means motor vehicles with a maximum allowed mass (MAM) or gross combination mass (GCM) of over 3.5 tonnes – 3,500 kilograms (7,716 lb);</i>
HS2 CoCP	<i>means the control measures and standards to be implemented throughout construction of Phase one of the HS2 project specified in the High Speed Rail (London-West Midlands) Environmental Minimum Requirements Annex 1: Code of Construction Practice as finalised at Royal Assent for the Bill;</i>
Local Planning Authority (LPA)	<i>means either Aylesbury Vale District Council or Buckinghamshire County Council as the context requires;</i>
Non Road Mobile Machinery (NRMM)	<i>means any mobile machine, item of transportable industrial equipment, or vehicle - with or without bodywork - that is: not intended for carrying passengers or goods on the road installed with a combustion engine – either an internal spark ignition (SI) engine, or a compression ignition diesel engine;</i>
Operational Hours	<i>means those hours specified in column (2) of the Table set out in Condition 9 by reference to the corresponding periods of time set out in column (1) of the Table;</i>

Operational Lightings	<i>means the lighting used for the loading and off-loading of container trains at the Operational Sidings but does not include lighting used to illuminate the movement of trains;</i>
Operational Sidings	<i>means the railway sidings comprised within Work No. 2 and Work No. 3 of the Order;</i>
Order	<i>means the High Speed Rail (London-West Midlands) (Greatmoor Railway Sidings Etc.) Order 201[x];</i>
Preliminary Works	<i>means the element of Development consisting of establishment of the site compounds, the erection of office and welfare facilities, boundary fencing, hoardings, ecological mitigation planting, utility diversions or alterations and the excavation of trial trenches for the purposes of condition 7.1;</i>
Programme of Archaeological Work	<i>means a programme of proposed works to implement the Written Scheme of Investigation;</i>
Reception Sidings	<i>means the railway siding comprised within Work No. 1 of the Order;</i>
Relevant Works	<i>means that part of the Development consisting of the construction of the Scheduled Works and the weighbridge proposed to be constructed within the Site;</i>
Scheduled Works Sidings	<i>has the same meaning as in the Order; means the Operational Sidings and Reception Sidings;</i>
Site	<i>the land contained within the red line boundary as shown on Planning Direction Drawings 1, 2 and 3 referred to in Condition 2;</i>
Vegetation Management Zone	<i>means areas of vegetation removal and management to discourage bats flying along the line of route of the HS2 railway authorised under the HS2 Act;</i>
Written Scheme of Investigation	<i>means a scheme which outlines the known and potential archaeological features and deposits and proposes a structure for exploring them using appropriate investigation techniques;</i>

1. Time Limit to Implement the Permission

The Development shall commence before the expiration of 5 years from the date that the Order comes into force.

Reason: *To ensure that the development is commenced within a reasonable period of time.*

2. Plans and Drawings

The development shall only be carried out in accordance with the following approved plans and documents, unless otherwise agreed in writing by the Local Planning Authority in accordance with Condition 13:

<i>Planning Direction Drawing Sheet 1</i>	<i>Location Plan</i>
<i>Planning Direction Drawing Sheet 2</i>	<i>Site Plan (Sheet 1 of 3)</i>
<i>Planning Direction Drawing Sheet 3</i>	<i>Site Plan (Sheet 2 of 3)</i>
<i>Planning Direction Drawing Sheet 4</i>	<i>Site Plan (Sheet 3 of 3)</i>
<i>Planning Direction Drawing Sheet 5</i>	<i>Existing Plan (Sheet 1 of 2)</i>
<i>Planning Direction Drawing Sheet 6</i>	<i>Existing Plan (Sheet 2 of 2)</i>
<i>Planning Direction Drawing Sheet 7</i>	<i>General Arrangement Plan (Sheet 1 of 2)</i>
<i>Planning Direction Drawing Sheet 8</i>	<i>General Arrangement Plan (Sheet 2 of 2)</i>
<i>Planning Direction Drawing Sheet 9</i>	<i>Reception Sidings and Bridleway QUA/36 Accommodation Green Overbridge (Work No.4) Sections</i>
<i>Planning Direction Drawing Sheet 10</i>	<i>Reception Sidings (continued) and Bridleway GUN/28 Accommodation Green Overbridge (Work No.6) Sections</i>
<i>Planning Direction Drawing Sheet 11</i>	<i>Operational Sidings Sections</i>
<i>Planning Direction Drawing Sheet 12</i>	<i>Greatmoor Railway Sidings Mitigation Context Plan</i>
<i>Planning Direction Drawing Sheet 13</i>	<i>Greatmoor Railway Sidings Mitigation Plan</i>
<i>Planning Direction Drawing Sheet 14</i>	<i>Office and Welfare Facilities General Arrangement Plan</i>
<i>Planning Direction Drawing Sheet 15</i>	<i>Bridleway GUN/28 Accommodation Green Overbridge General Arrangement (Work No.6) General Arrangement</i>
<i>Planning Direction Drawing Sheet 16</i>	<i>Bridleway QUA/36 Accommodation Green Overbridge General Arrangement (Work No.4) General Arrangement</i>

<i>Planning Direction Drawing Sheet 17</i>	<i>Bridleway QUA/36 Diversion Plan and Profile</i>
<i>Planning Direction Drawing Sheet 18</i>	<i>Realigned EfW Access Plan and Profile</i>
<i>Planning Direction Drawing Sheet 19</i>	<i>Bridleway GUN/28 Diversion Plan and Profile</i>
<i>Planning Direction Drawing Sheet 20</i>	<i>Operational Sidings Plan and Profile</i>
<i>Planning Direction Drawing Sheet 21</i>	<i>HS2 Phase One Balancing Pond Access Plan and Profile</i>
<i>Planning Direction Drawing Sheet 22</i>	<i>Lighting Boundary Plan</i>

Reason: *For the avoidance of doubt and in the interests of proper planning.*

3. Lighting

3.1 No permanent floodlighting or other form of permanent external lighting shall be installed within the Site unless it is in accordance with details which have previously been submitted to and approved in writing by the Local Planning Authority. Such details shall include location, height, type and direction of light sources and intensity of illumination. Any permanent floodlighting or other form of permanent external lighting which is so installed shall not thereafter be altered unless otherwise agreed in writing by the Local Planning Authority in accordance with Condition 13.

3.2 Operational lighting, including lighting from operational plant and equipment and vehicles and trains accessing the Sidings, shall not result in a lighting level in excess of 0.5 lux at the periphery of the Operational Sidings and Reception Sidings and at other ecologically sensitive boundaries as delineated in red on the Lighting Boundary Plan (shown on Planning Direction Drawing Sheet 22 referred to in Condition 2) unless otherwise agreed in writing by the Local Planning Authority in accordance with Condition 13.

Reason: *In the interests of mitigating ecological and landscape and visual impacts.*

4. HS2 CoCP (Environmental Management Plan, Travel Plan, Construction Working Hours, Traffic Management Plan etc.)

Construction of the Development shall be carried out in accordance with the HS2 CoCP unless otherwise agreed in writing by the Local Planning Authority in accordance with Condition 13.

Reason: *In the interests of the amenity of the area and the purpose of environmental protection.*

5. Ecology and Landscape Management Plan (ELMP)

5.1 The Development shall be constructed in accordance with an Ecological and Landscape Management Plan (ELMP) submitted to and approved in writing by the

Local Planning Authority. The ELMP shall include long term design objectives, management responsibilities and maintenance schedules for all landscaped areas and drainage ponds. The ELMP shall be based upon the mitigation measures contained within the Environmental Statement and shall include a programme of implementation, management and maintenance and details of connectivity of wet features, treatments of site boundaries and buffers around water bodies and fencing along the road edge. The ELMP shall be carried out as approved unless otherwise agreed in writing by the Local Planning Authority in accordance with Condition 13.

5.2 During the construction phase of the Development Black Hairstreak habitat will be monitored along Greatmoor Road to ensure the quality of the habitat is maintained. Where impacts from construction activities are identified, appropriate remediation to mitigate the impacts will be submitted to and agreed in writing with the Local Planning Authority and implemented as agreed.

Reason: *To mitigate the impact of the Development on biodiversity.*

6. Landscape Design

Prior to commencement of Development, other than the Preliminary Works, a Landscape Mitigation Scheme shall be submitted to and approved in writing by the Local Planning Authority. The details of the Landscape Mitigation Scheme shall conform generally to those illustrated in the Greatmoor Railway Sidings Mitigation Plan and those measures contained within the Environmental Statement. The scheme shall include the following details:

- i. Details of vegetation to be removed within the Vegetation Management Zone;*
- ii. Details of the retention of existing vegetation including a tree survey to BS5837 'Trees in relation to construction';*
- iii. Details of species of trees and shrubs to be planted;*
- iv. Location of planting of new trees and shrubs;*
- v. Phasing planting plan;*
- vi. Protection measures to be provided to new planting including weed control;*
- vii. Five year programme of management and maintenance and replanting of any trees or shrubs, which die or become diseased; maintenance to include those within the Vegetation Management Zone.*

The approved Development shall be implemented in accordance with the Landscape Mitigation Scheme.

Reason: *In the interests of mitigating ecological impacts, to ensure a satisfactory appearance and to secure biodiversity enhancements as part of the scheme.*

7. Archaeology

7.1 No part of the Development, other than the Preliminary Works, shall commence until an archaeological evaluation in the form of a geophysical survey and/or trial trenching, as appropriate, in accordance with a Written Scheme of Investigation, has been submitted to and approved in writing by the Local Planning Authority.

7.2 Where archaeological remains of national importance are found, no Development at the relevant location shall take place until an appropriate methodology for their preservation in situ, where reasonably practicable, has been submitted to and approved in writing by the Local Planning Authority. The methodology shall be implemented as approved.

7.3 Where archaeological remains are recorded by the evaluation carried out under condition 7.1 and are not of sufficient significance to warrant preservation in situ but are worthy of recording, development at the relevant location shall be carried out in accordance with a Programme of Archaeological Work which has been submitted to and approved in writing by the Local Planning Authority in accordance with a Written Scheme of Investigation.

Reason: *To record or safeguard any archaeological evidence that may be present at the site.*

8. Flooding and Surface Water Drainage

8.1 Prior to the commencement of Development, other than the Preliminary Works, a flood risk assessment shall be submitted to the Local Planning Authority. A detailed design for all surface water systems shall also be submitted to and approved in writing by the Local Planning Authority in consultation with Buckinghamshire County Council. This design will detail how any increase in flood risk will be avoided and how natural water flow will be maintained by encouraging storm water to soak into the ground or, where that is not reasonably practicable, by discharge into watercourses or surface water/combined sewers at a controlled rate by means of Sustainable Drainage Systems (SuDS). This will include the flood compensation areas and balancing ponds. The details submitted shall include but not be limited to: location, storage volume calculations, cross sections, ecological and amenity benefits in relation to the flood storage area, and location, storage volume, discharge rate, and cross sections. The Development shall be implemented in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority in accordance with Condition 13.

8.2 Prior to the commencement of Development, other than Preliminary Works, a "whole-life" maintenance plan for all surface water systems for the Site shall be submitted to and approved by the Local Planning Authority. The plan shall set out how and when to maintain the drainage system (e.g. a maintenance schedule for each drainage/SuDS component) following construction, with details of who is to be responsible for carrying out the maintenance. The approved Development shall be implemented in accordance with the approved maintenance plan.

Reason: *In order to protect water quality, ensure peak flow and total volume of surface water run-off from the developed site is no greater than the rates prior to the development, and to mitigate flood risk.*

9. Operational Hours - Bat Mitigation

9.1 Activities associated with the offloading or loading of spoil or container trains, Operational Lighting, and train movements within the Operational Sidings (other than permitted in accordance with Condition 11) shall only be carried out between the following GMT times:

Table (1) Month	(2) GMT Hours of Operation	(3) Informative BST
January	0430 - 2300	
February	0430 - 2300	
29th February – 13th March	0645 - 1830	
14th March – 26th March	0615 - 1830	0715 - 1930
27th March – 10th April	0545 - 1830	0645 - 1930
11th April – 24th April	0515 - 1845	0615 - 1945
25th April – 8th May	0445 - 1915	0545 - 2015
9th May – 22nd May	0415 - 1930	0515 - 2030
23rd May – 5th June	0400 - 2000	0500 - 2100
6th June – 19th June	0345 - 2015	0445 - 2115
20th June – 3rd July	0400 - 2015	0500 - 2115
4th July – 17th July	0415 - 2015	0515 - 2115
18th July – 31st July	0430 - 1945	0530 - 2045
1st August – 14th August	0500 - 1915	0600 - 2015
15th August – 28th August	0515 - 1845	0615 - 1945
29th August – 11th September	0530 - 1815	0630 - 1915
12th September – 25th September	0600 - 1745	0700 - 1845
26th September – 9th October	0600 - 1730	0700 - 1830
10th October – 29th October	0600 - 1730	0700 - 1830
30th October – 30th November	0430 - 2300	
December	0430 - 2300	

Hours of operation shown in column (2) in GMT. Informative BST hours provided in column (3) but actual date of change to and from BST varies year on year.

Reason: To avoid disturbance of protected species (bats).

10. Design, External Appearance and Materials

No works in respect of the items listed below shall be commenced until details of the location, layout, scale, appearance and external materials of that item have been submitted to and approved in writing by the Local Planning Authority. Development shall accord with the approved details.

Item (a): Office and Welfare facilities.

Item (b): Bridleway GUN/28 Accommodation Green Overbridge.

Item (c): Bridleway QUA/36 Accommodation Green Overbridge.

Item (d): Rail mounted gantry crane.

Item (e): Permanent boundary fencing, including Environmental Fencing (noise and light) or other means of enclosure.

Item (f): Weighbridge

Item (g): Hard surfacing

Reason: In the interests of visual amenity

11. Management of Trains Arriving at Sidings Outside of Operational Hours

- *Trains entering the Reception Sidings from the mainline or the Operational Sidings from the Reception Sidings outside of Operational Hours shall shut down their engines and switch off all internal and external lighting within 30 minutes of arrival.*
- *Trains exiting the Reception Sidings onto the mainline or exiting the Operational Sidings into the Reception Sidings outside of Operational Hours shall do so within 30 minutes of engine start up or any internal or external lighting being switched on.*
- *All train movements within the Reception Sidings and the Operational Sidings shall be subject to the above restrictions.*

Reason: *To avoid disturbance of protected species (bats).*

12. Air Quality Mitigation for Adjacent SSSIs

The operator of the Operational Sidings will only use, and permit to be used, the following vehicles on the site of the Operational Sidings to transport spoil or waste:

- *Non Road Mobile Machinery (NRMM, in accordance with Non Road Mobile Machinery (Emission of Gaseous and Particulate Pollutants) Regulations 1999 as amended) with engine emissions compliant with Type Approval Stage IV, or with lower emissions;*
- *Or road-going Heavy Goods Vehicles (HGV) with engine emissions compliant with the Euro VI standard (in accordance with European Commission Regulation 595/2009), or with lower emissions.*

Reason: *To mitigate the impact of the Development on biodiversity and protected designated sites.*

13. Approval of Amendments

Where under any conditions the Local Planning Authority may approve amendments to details submitted and approved, such approval must not be given except in relation to changes where it has been demonstrated to the Local Planning Authority that the approval sought will not give rise to any materially new or materially different significant environmental effects from those assessed in the Environmental Statement.

Reason: *For the avoidance of doubt and in the interests of proper planning.*

14. Highway design

14.1 No Development shall commence until the detailed design of the Sidings access road, including its junction with Greatmoor Road has been submitted to and approved in writing by the Local Planning Authority. The Development shall be laid out and constructed only in accordance with the approved details.

14.2 No Development shall commence until details of the vehicle loading and manoeuvring areas within the Development have been submitted to and approved in writing by the Local Planning Authority. The Development shall be laid out and constructed only in accordance with the approved details and thereafter the areas shall be retained as approved, unless otherwise agreed by the Local Planning Authority.

Reason: *in the interests of highway safety and capacity.*

15. Noise

15.1 The Development shall be designed, constructed, installed and maintained so that the rating level of noise from fixed mechanical and electrical plant and equipment, in normal operation, shall not exceed +5dB above the background level determined in accordance with BS4142:2014 at the worst affected residential receptor.

15.2 Prior to the commencement of the operation of the Sidings a competent person shall carry out a noise assessment in accordance with BS4142:2014 to calculate the rating level of noise expected to be emitted from the Site (being the land contained within the red line boundary as shown on Planning Direction Drawings 1, 2 and 3 referred to in Condition 2), on nearby residential dwellings. The assessment shall include all potential noise sources associated with activities at the Operational Sidings and Receptions Sidings and shall include (but not be limited to) all static and mobile plant and ancillary equipment, and road and rail vehicles servicing operations within the Site. Prior to commencement of the assessment the methodology to be used shall be submitted to and agreed in writing with the Local Planning Authority. On completion of the assessment the results shall be submitted to the Local Planning Authority. Should the assessment show that any residential dwelling may be impacted by noise at a rating level of +10dB or more above the representative background sound level, all reasonably practicable mitigation measures, at or near to the noise sources, shall be applied to reduce the potential rating level at the dwelling to below +10dB above the representative background sound level. Such measures shall be submitted to and agreed in writing by the Local Planning Authority.

15.3 Prior to the commencement of the operation of the Sidings a Noise Management Plan shall be submitted to and agreed in writing by the Local Planning Authority. The Noise Management Plan must set out the operational controls for noise management on the Site and how and at what frequency this will be monitored. The Noise Management Plan will include a documented recording system to record incidents and the resulting actions taken. The approved Noise Management Plan shall be complied with during operation of the Sidings.

15.4 Within 6 weeks of the commencement of the operation of the Sidings noise monitoring shall be undertaken at nearby residential dwellings in accordance with the Noise Management Plan approved under condition 15.3. Should such monitoring indicate that noise rating levels at any of the nearby residential dwellings are +10 dB or more above the representative background sound level (as assessed using BS4142; 2014 methodology) those dwellings affected shall be eligible for additional noise mitigation measures at the dwelling. Such measures shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance.

Appendix

Draft condition 9.2

Until such time as the period of the HS2 Bernwood European Protected Species Licence (Bats) ceases, High Speed Two (HS2) Limited (and its successors) will produce an annual monitoring report. This annual monitoring report shall be agreed with Natural England and submitted, on the last working day of November each year, to the Local Planning Authority and the operator of the Operational Sidings.

a) To the extent it is concluded that the evidence in the monitoring report identifies that the hours of operation of the Operational Sidings may have a material effect on the Favourable Conservation Status of the bats, the monitoring report shall explain that conclusion and refer to such evidence, and the Local Planning Authority, HS2 Limited and FCC, in consultation with Natural England, will consider whether remediation measures may be appropriate in respect of operational activities within the hours set out in Condition 9.1 above to preserve the Favourable Conservation Status of the bats, within six weeks of receipt of the report.

b) If other remediation measures in respect of operational activities within the hours set out in 9.1 above are not appropriate, the operator of the Operational Sidings shall, in consultation with Natural England and HS2 Ltd, submit a scheme within a further six weeks for approval by the Local Planning Authority, of modified operational hours to address the findings of the monitoring report.

c) The scheme for approval under paragraph b) shall include a timetable for implementation of the modified operational hours.

The approved scheme of modified operating hours shall thereafter be implemented by the operator of the Operational Sidings, and the Operational Sidings shall be operated only within the approved hours.