



Department
for Transport

House of Lords Select Committee on High Speed Rail (West Midlands - Crewe) Bill Promoter's response to the Select Committee's Special Report of Session 2019 – 2021

Moving Britain Ahead

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Introduction

- 1 This document constitutes the response of the Promoter of the High Speed Rail (West Midlands - Crewe) Bill to the Special Report of the 2019-21 session (hereafter referred to as 'the report') published on 19 October 2020 by the House of Lords Select Committee on the High Speed Rail (West Midlands - Crewe) Bill (hereafter referred to as 'the Bill').¹
- 2 The Bill is being promoted by the Secretary of State for Transport. Responsibility for delivering the various actions that are outlined in this response will rest with either HS2 Ltd, the Department for Transport or the relevant nominated undertaker. The terms 'Promoter' and 'we' are used at various points in this document to encompass all of these parties.
- 3 This response aims to only address the matters raised by the Select Committee in their report where an action from the Promoter is sought, or where a clarification or comment from the Promoter is considered to be helpful or appropriate. To assist the reader, emphasis has been added to the text of the report to highlight the matter being responded to.
- 4 Where existing assurances are referred to, the reader may wish to refer to the draft Phase 2A Register of Undertakings and Assurances for the complete text.² Where the assurance referred to has not yet been included in the draft Register, a link to where the complete text can be found is provided if the assurance has been published. Where it has not, the assurance will be included in the next draft of the Register. Where an assurance is described in the response, the text of the assurance itself as included in the Register takes precedence.
- 5 The Promoter gratefully acknowledges the Select Committee's report and recommendations. Members of the Select Committee have devoted considerable time and effort to providing conscientious and balanced deliberations on the petitions presented to them, in unique circumstances. The Promoter would like to thank members for the patient and dedicated manner in which they have approached their task. The Promoter also recognises the demands the Select Committee process, undertaken in unique circumstances, has placed on petitioners, and thanks them for their patience and flexibility.

¹ See HL Paper 149 at <http://committees.parliament.uk/committee/404/high-speed-rail-west-midlands-crewe-bill-select-committee-lords/news/120165/hs2-bill-committee-publishes-report/>.

² See <http://www.gov.uk/government/publications/hs2-phase-2a-register-of-undertakings-and-assurances> for a copy of the latest draft of the HS2 Phase 2a Register of Undertakings & Assurances.

Promoter's Response

Additional Provisions

- 6 In paragraph 20 of the report the Select Committee said:

“While it is possible for Additional Provisions to be incorporated into a bill while it is in its first House, practice prevents Additional Provisions being promoted in the second House. This issue was covered at length in the report of our predecessor committee on the Phase 1 Bill. **Following the lead of that committee we ruled that we would not hear argument proposing changes that would amount to an Additional Provision as we simply could not recommend such a course of action. Similarly, we ruled that it was not our role to recommend an order under the Transport and Works Act 1992, which would be to pursue an Additional Provision by other means.** The full text of our ruling can be found at Appendix 2.”

Promoter's Response

- 7 The Promoter welcomes the Select Committee's decision on this issue and notes that it is consistent with the decision of the House of Lords Select Committee considering the Phase 1 Bill. The Promoter would encourage those considering petitioning against future hybrid Bills, including the High Speed Rail (Crewe – Manchester) Bill in due course, to bear in mind the precedent set when considering what issues to petition on when the Bill is in the second House.

Right to be heard

- 8 In paragraph 21 of the report the Select Committee said:

“For completeness we should note that a procedure exists allowing the promoter to challenge a petitioner's right to be heard by the Committee (formerly known as locus standi). Should the promoter challenge a petitioner's right, it is for the Committee to decide whether they do in fact have the right to be heard or whether the Committee nonetheless wishes to hear from them. **The promoter did not challenge the right of any of our petitioners to be heard.**”

Promoter's Response

- 9 For the avoidance of doubt, the Promoter did challenge the right to be heard of one petitioner; the Parochial Church Council of Parish Church St Mary the Virgin Ingestre (HS2-HOL-016). The challenge was issued in October 2019, when the first Select

Committee was appointed.³ The Parochial Parish Council subsequently withdrew their petition, and so there was no need for the Select Committee appointed in March 2020 to adjudicate on any right to be heard challenges when it started its hearings.

Planning and the Environment

10 In paragraphs 43-45 of the report the Select Committee said:

“We were given an initial briefing on planning and the environment by HS2 Ltd’s Environment and Town Planning Director, Mr Miller. We were also assisted by exchanges with Timothy Mould QC, for the promoter, during the hearing of the petition by Yarnfield and Cold Meece Parish Council and others. They had presented a direct challenge to the proposition that a limited level of detail was all that was required from the promoter for the parliamentary stage of the bill’s progress. They wanted to explore various aspects of the scheme in much greater detail, to expose what they submitted was the inadequacy of the promoter’s analysis. This was an approach to our task that was urged upon us by several other petitioners, and it requires examination as an issue of principle.

As Mr Mould explained, it is well established that where a national project is promoted through a measure of this kind the level of detail that must be provided to Parliament should be sufficient to enable it to scrutinise whether the scheme is acceptable and its promoters ought to be given the powers that are needed to carry it out. This means that it must be sufficient for an assessment of the environmental effects of the scheme. For example, the engineering design must be developed to the degree necessary to enable a traffic impact assessment to be undertaken and a noise impact assessment to be carried out and design policies formulated for the specification of noise levels and matters of that kind. But it has never been regarded as necessary for the scheme to be developed to the level of design detail that would enable contracts to be let for the construction of the railway. The bill itself is essentially an enabling bill. It is designed to give local control over these matters to the planning and highway authorities following its enactment.

As the Court of Appeal said with regard to the provisions of the High Speed Rail (London to West Midlands) Act 2017 in R (on the application of Hillingdon London Borough Council) v Secretary of State for Transport and others [2020] EWHC 3574 (Admin), para 10, the duty to perform an assessment of the impact and possible mitigation and modification measures was imposed by Parliament squarely and exclusively upon the local authority, and the authority was under no duty to process a request for approval by HS2 Ltd unless it was accompanied by evidence and information adequate and sufficient to enable the authority to perform its statutory duty. What was said there about the division of powers and responsibility for the evaluation of local planning concerns between local authorities and HS2 Ltd applies equally to the bill with which we are concerned. We are satisfied that the promoter’s understanding of the level of detail that is

³ See paragraphs 32-36 and 38 of the report.

required of them for our purpose was well-founded, and that there was no sound basis for demands that further details should be provided.”

Promoter’s Response

- 11 The Promoter notes the Select Committee’s reference to the Court of Appeal judgement of 31 July 2020 in respect of the duty placed on local authorities when considering applications for the approval of details under Schedule 17 to the High Speed Rail (London to West Midlands) Act 2017 (and so also under Schedule 17 to the Bill in due course). The Promoter welcomes the Select Committee’s decision on the issue of the level of detail that is required to support the passage of the Bill through Parliament.

The Environmental Statement

- 12 In paragraph 50 of the report the Select Committee said:
- “The Secretary of State established a set of Environmental Minimum Requirements (“EMRs”) which will apply, as a matter of contractual obligation, to the nominated undertaker and its contractors which will not be appointed until the bill has received the Royal Assent, although they may already have been selected, or are being considered for selection. EMRs include general principles, the Code of Construction Practice comprising general requirements about such matters as core working hours and pollution control measures and site-specific requirements such as dust and air quality management and the protection of trees. **They also include an Environmental Memorandum, a Heritage Memorandum, a Planning Memorandum and a Housing Memorandum.** In compliance with the House of Commons and House of Lords Standing Orders, the promoter undertook an eight-stage process culminating with the final publication of the Environmental Statement which was submitted with the bill. Details of the eight-stage process of this Environmental Impact Assessment are given in the Third Special Report of the House of Commons Select Committee. **The nominated undertaker has to ensure that environmental effects of the scheme as reported in the Environmental Statement will not be exceeded.** The opportunity will be taken at the stage of detailed design to adopt further mitigation.”

Promoter’s Response

- 13 A Housing Memorandum does not form part of the Environmental Minimum Requirements (EMRs). There is a Housing Statement (rather than a Housing Memorandum), but it is prepared and published on deposit as required by Standing Orders rather than as part of the EMRs.
- 14 Paragraph 1.1.3 of the General Principles document which underpins the EMRs sets out the intention that the controls contained in the EMRs along with the powers contained in the Bill and undertakings given by the Secretary of State will ensure that, subject to the qualifications set out in that paragraph, the impacts assessed in the Environmental Statement would not be exceeded.⁴

⁴ See

http://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/627554/E175_Draft_EMRs_General_Principles_WEB_final.pdf.

Footpaths, cycleways, bridleways

- 15 In paragraph 62 of the report the Select Committee said:

“Apart from the petition from Cycling UK which we mention in Chapter 7, there were almost no references in the petitions to footpaths, cycleways or bridle paths. The application of mitigation measures during the design process and compliance with conditions imposed by local authorities on developments affecting them should provide the protections that are needed by persons using these routes. **Since some of these are to cross the new railway on “green bridges”, we add, in view of the consequences that could follow if a bicycle or pony managed to fall with its rider onto the railway, that the precautionary approach should be taken to the height and robustness of the bridge sides, even if it entails some deficit in their appearance.”**

Promoter’s Response

- 16 The Promoter notes the recommendation that a precautionary approach should be taken to the height and robustness of bridge sides for bridges over the HS2 railway. Those bridges that cross over the HS2 railway, such as “green bridges”, would be provided with parapets that comply with the relevant standards to control the risk of a bicycle or pony and/or its rider falling onto the railway which are considered to be precautionary.⁵ The operational railway would need to be protected from the risk of hazards such as these falls from bridges above the track. The design and external appearance of these bridge parapets would be subject to approval by the relevant planning authority under Schedule 17 to the Bill.
- 17 The Promoter has also previously identified that due regard will be paid to the British Horse Society’s guidelines when designing relevant elements of the scheme.⁶ Moreover, the Promoter has given the North Staffordshire Bridleways Association an assurance that “[t]he Promoter will require the nominated undertaker to consider designing to a higher standard, taking into account site-specific conditions, where reasonably practicable and appropriate”.⁷ This assurance would be applicable to cyclists and riders using bridleways that form part of a ‘green bridge’.

Traffic

- 18 In paragraph 69 of the report the Select Committee said:

“A draft Code of Construction Practice has been prepared with a view to mitigating and managing the impacts of traffic during construction. The measures that are set out in the draft Code address the phasing of the works, the timing of operations, road traffic management, layouts and signage, parking controls, a list of roads that may be used as construction routes by large goods vehicles, including any restrictions on the use of these routes and the monitoring of vehicles arriving at and leaving the

⁵ The minimum parapet height for the central span (over the railway tracks) of an HS2 overbridge is 1.8m, and this parapet height would also apply to the side spans where equestrian traffic is permitted to use the overbridge.

⁶ See for example the transcript of the HS2 Phase 2a Bill House of Commons Select Committee hearing of the petition from the North Staffordshire Bridleways Association on 17 July 2018 Q666-840).

⁷ See U&A Ref ID C102.2 on the HS2 Phase 2a Register of Undertakings & Assurances.

construction compounds. They also address monitoring for any deviation from authorised routes, measures for the reinstatement of highways, emergency access protocols, proposals for the transport of the construction workforce, measures to ensure their safe access to and from the site and arrangements for liaison with the relevant highway authorities and emergency services. The construction routes would be submitted to the local planning authority for approval under Schedule 17 to the bill. Routes with direct access to the strategic road network would be used, and the use of local roads would be limited where reasonably practicable. **Construction routes used by large goods vehicles of over 7.5 tonnes would require the approval of the local highway authority, except where they were using motorways or trunk roads and access to compounds with less than 24 two-way trips per day.**”

Promoter’s Response

- 19 Paragraph 6 of Schedule 17 to the Bill requires that large goods vehicles of over 7.5 tonnes must only use routes to a working or storage site, a site where material will be re-used, or a waste disposal site, which have been approved by the relevant planning authority (that is the unitary authority or county council for the area). However, this does not apply to routes where the number of movements per day is 24 or less, nor to motorways and trunk roads or any part of the route beyond a motorway or trunk road.”
- 20 In paragraph 71 of the report the Select Committee said:
- “As the proposed scheme would run through rural areas where the existing use of the land is primarily for arable and livestock farming, significant permanent and temporary disturbance to farm holdings along the line would be unavoidable. The promoter has sought to minimise its impact in designing the proposed scheme. The location of environmental mitigation and compensation works has been determined by engaging with affected farmers and growers and their representative body, the National Farmers Union, throughout the bill process. **A specific guidance document has been prepared called the Code for Farmers and Growers.** It sets out the policies currently proposed by the promoter on agricultural matters. It also provides a framework for managing the effects of the proposed scheme in relation to the individual landholdings through the detailed design, construction and operational phases of the railway.”

Promoter’s Response

- 21 For clarity, the title of the document is the Guide for Farmers and Growers, rather than the Code for Farmers and Growers.

Noise

- 22 In paragraph 77 of the report the Select Committee said:
- “The decibel scale is a measure of proportional changes. **Every time a level in dB goes up by 10 units it doubles the intensity of that previous sound level.** That is as true all the way up the scale, whether for an increase from 70dB to 80dB or an increase from 10dB to 20dB. Conversely, every 10dB decrease is a halving of the sound level. Weighted decibels, dB(A), approximate to the response of the human ear. The response varies from person to person, depending on the quality of their hearing.”

Promoter's Response

- 23 The Promoter welcomes the summary of Mr Thornely-Taylor's presentation on the scientific and engineering aspects of noise and vibration. There is one matter of terminology that requires clarification. In the second sentence of the paragraph it is said "Every time a level in dB goes up by 10 units it doubles the intensity of that previous sound level". While, in vernacular use, "intensity" and "loudness" may often be treated as synonymous, in physics they have different meanings. In this paragraph the reference to intensity is a reference to loudness perceived by a human being. In physics and engineering, "intensity" means flow of energy per unit area, in watts per square metre (expressed using the decibel scale relative to 1 picowatt per square metre). Every time a level in dB goes up by 10 units the intensity, thus defined, goes up by a factor of 10 although the effect is only perceived as about a doubling of loudness by a human being. The point covered by the highlighted sentence would therefore be reflected more precisely by the statement "Every time a level in dB(A) goes up by 10 units it approximately doubles the loudness of that previous sound level".

The promoter's proposed limits; mapping of noise contours

- 24 In paragraph 95 of the report the Select Committee said:
- "We regard these limits, which are the same as those proposed for HS2 Phase 1, as reasonable.** The promoter has, with the sound experts, provided detailed plans in the form of noise map books and tables for the whole of the line of route showing what the noise effects are predicted to be at any particular location. Areas within the 40dB LAeq contour are indicated on maps by grey shading and the contours of the SOAEL in pink. Properties in the pink areas, of which there are some, will be eligible for sound insulation to avoid SOAEL in accordance with government policy. Other kinds of mitigation and minimisation will be applied, so far as practicable, in the case of properties in areas that are between LOAEL and SOAEL. Detailed application of the various measures required to address these issues will be a matter for the contractors appointed to work on the scheme."

Promoter's Response

- 25 The Promoter welcomes the Select Committee's conclusion that they regard the effect levels stated in terms of "Lowest Observed Adverse Effect Levels" (LOAEL) and "Significant Observed Adverse Effect Levels" (SOAEL) as reasonable. The report describes them as "limits", and indeed there are limiting implications associated with them to the extent that mitigation and avoidance measures are mandated by Government policy when they are exceeded, but they are more precisely described as effect levels rather than limits in HS2 Phase 2a Information Paper E9: Control of Airborne Noise and HS2 Phase 2a Information Paper E10: Control of Ground-Borne Noise and Vibration from the Operation of Temporary and Permanent Railways and the Promoter considers it is important that they are understood as such.⁸ The Promoter welcomes the Select Committee's conclusion as

⁸ See

http://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/628455/E9_Control_of_Airborne_Noise_v1.0.pdf and http://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/628456/E10_Ground-borne_noise_and_vibration_v1.0.pdf.

to their reasonableness given that, as well as being the same in Phase 2a as in Phase 1, they are also intended to be the same in the assessment accompanying the Phase 2b western leg Bill when it comes before Parliament.

Express Purchase Scheme

26 In paragraph 109 of the report the Select Committee said:

“In paragraph 121 of the House of Commons Select Committee’s final report the HS2 Residents’ Commissioner is quoted as criticising the term “Express Purchase Scheme” because the process of negotiation can be very drawn out. We think there has been a misunderstanding here. As we understand it, the term “express” is being used not in its popular sense as the opposite of “slow”, but in its legal sense as the opposite of “implied”. A house purchased under the scheme is actually transferred and the agreed consideration is paid then by force of contract, whereas under true compulsory purchase the property vests automatically by operation of law and the compensation is paid once it has been finally determined. **Negotiations under the Express Purchase Scheme may indeed be protracted, but we would not assume that that is invariably the fault of the promoter.**”

Promoter’s Response

27 Guidance on the Express Purchase Scheme has been published.⁹ The Express Purchase Scheme is available to eligible owners of properties within the surface safeguarding area and under the scheme, the Secretary of State for Transport has relaxed some of the rules that normally apply to statutory blight, making it easier for owner-occupiers to sell their property to the Secretary of State for Transport. The Promoter welcomes the acknowledgement by the Select Committee that protracted negotiations may not always be the fault of HS2 Ltd.

Tenants

28 In paragraph 115 of the report the Select Committee said:

“Residential tenants who are leaseholders with at least three years of their terms unexpired are eligible for the Express Purchase Scheme, the Voluntary Purchase Scheme, and the Need to Sell Scheme, or to receive a homeowner payment. Other residential tenants will be entitled to a home loss payment. This does not however apply to tenants with shorthold assured periodic tenancies, to some agricultural tenancies, or to tenancies of narrow boats. **The House of Commons Select Committee took up these omissions with the Secretary of State but does not seem to have made much progress.**”

Promoter’s Response

29 The Promoter has relied on the existing law that already provides for disturbance payments to be made to eligible agricultural tenants and tenants with shorthold

⁹ Under the Express Purchase Scheme, the Government relaxes some of the rules that normally apply to statutory blight, making it easier for owner-occupiers to sell their property. See <http://www.gov.uk/claim-compensation-if-affected-by-hs2/express-purchase-scheme> and pages 9-12 of the Guide to HS2 property schemes Phase 2a at <http://www.hs2.org.uk/documents/guide-hs2-property-schemes-phase-2a/>.

assured periodic tenancies and agricultural tenants if they are displaced by compulsory purchase activity.¹⁰ The Secretary of State for Transport is therefore not persuaded that the perceived deficiencies, raised in Select Committee in the House of Commons and during Second Reading of the Bill in the House of Lords, and referred to by the Select Committee in the report, exist.

- 30 Those on assured shorthold tenancies and agricultural tenants may be eligible for statutory compensation under existing compensation legislation. An agricultural tenant may also be eligible for non-statutory property compensation schemes, depending on their individual arrangements. The Secretary of State for Transport will continue to work across Government to support those impacted by HS2.
- 31 The Select Committee has identified that the entitlements of houseboat residents affected by public works differ in law to some other types of residents of movable homes. The Secretary of State for Transport is committed to ensuring that all residents affected by HS2 are properly supported and treated fairly.
- 32 The Promoter does not anticipate that any houseboat owners will be displaced by compulsory purchase action on the Phase 2a route.
- 33 The property compensation schemes available for HS2 are kept under review, and the Secretary of State for Transport will further consider the package of support that is available to owners of all types of mobile home.
- 34 The Ministry of Housing, Communities and Local Government (MHCLG) as the Department responsible for compulsory purchase policy is committed to consulting on a range of broader reforms. This includes reviewing the entitlement of houseboat owners to compensation (which would require primary legislation) as well as reversing the current share of loss payments between owners and occupiers, so that the occupiers receive the greater share of loss payments.

Special cases

- 35 In paragraphs 118-120 of the report the Select Committee said:

“Despite the complexity of the non-statutory property package, there are inevitably special cases in which its application would produce unfair results, and which must therefore be dealt with differently. It is one of the strengths of the hybrid bill system that such cases can be dealt with on the petition of a citizen who might otherwise be treated unfairly. The two examples that follow are not exhaustive of the possibilities.

The first example is of a householder who finds themselves threatened with isolation from the small community of which they were a member. Imagine a small hamlet of only five dwellings. Three are very close to the centre of the line of route and are sure to be demolished. One is a bit further away but is within the RSZ, and its owner has already decided to sell under the voluntary purchase scheme; that vacant house may also be demolished. The last house is just outside the RSZ. They would be eligible for a homeowner payment, but it would not adequately compensate them for the

¹⁰ See HS2 Phase 2a Information Paper C15: Guide to Compensation for Short Term Residential Tenants (http://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779283/C15_Guide_to_Compensation_for_Short_Term_Residential_Tenants_v_1.0.pdf) and Baroness Vere's letter of 19 September 2019 to Lord Tunnicliffe following the debate at Second Reading of the Bill, a copy of which was placed in the Library of the House.

disappearance of the little community of which they had been a member. They too should be eligible for the voluntary purchase scheme.

The other example is the householder whose house is in close proximity to an area outside the RSZ which is to be acquired for temporary use as a dump for excavated earth, an HGV park or some similar purpose. Such areas will have been safeguarded, but the safeguarding is strictly limited to the area itself; there is no “mini-RSZ” surrounding it. Yet the temporary use may be, while it lasts, extremely intrusive. Excavated earth may be put in piles up to three metres or more in height. In some cases the intrusion may be so bad as to make the neighbouring house almost uninhabitable. In such cases the voluntary purchase scheme may be the best solution.”

Promoter's Response

- 36 The Promoter supports people and businesses whose circumstances are such that they do not qualify for the non-statutory schemes established for HS2, by considering them ‘atypically’.
- 37 Atypical consideration is an established support mechanism for the HS2 scheme. Individuals who are not eligible for other schemes, but whose circumstances are such that they should be considered for Government support, have been helped under these arrangements. As confirmed in the Promoter's response to the House of Commons Select Committee's Second Special Report of Session 2017-2019, tenants as well as residents with other types of tenure can apply to be considered under atypical arrangements.¹¹
- 38 The Promoter is working with HS2 Ltd to consider what improvements can be made to the Secretary of State for Transport's dedicated atypical arrangements to increase awareness and accessibility to those affected by HS2.

Cycling UK (Petition 32, heard on 28 July and 23 September)

- 39 In paragraph 125 of the report the Select Committee said:
- “We consider that the most that can be expected of HS2 at this stage is that it should adopt LTN 1/20 as guidance and not as binding standards. It will be for the highway authorities to determine the adequacy of any proposed road changes during the construction stage against their own standards, as informed by LTN 1/20 and other considerations. This applies in general as well as to the specific cases of the Yarnfield Lane bridges and the A34/ A51 junction. We make no recommendations on this petition, but we understand that HS2 Ltd wrote to Mr Geffen on 30 September and hope that a satisfactory outcome can be reached.”**

Promoter's Response

- 40 The Promoter welcomes the Select Committee's view that it should adopt LTN 1/20 as guidance, and will continue to work with highway authorities to agree appropriate cycling infrastructure standards. As explained in the letter of 30 September, HS2 Ltd

¹¹ See paragraphs 134-159 of the response at http://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/893698/hs2-phase-2a-promoters-response-select-committee-second-special-report.pdf.

will continue to integrate LTN 1/20 into the existing suite of HS2 guidance and, where appropriate, technical standards. The Promoter is committed to continued engagement with relevant stakeholders, including where appropriate attendance at the Cycling and Walking Infrastructure Group (CWIG), formerly the Cycle Proofing Working Group, as agreed in the assurance given to Cycling UK in July 2018.¹² As part of ongoing engagement with Cycling UK, the Promoter and HS2 Ltd will attend an extraordinary session of CWIG organised with a specific focus on HS2.

Royal Society of Wildlife Trusts (Petition 26, heard on 28 July)

41 In paragraph 129 of the report the Select Committee said:

“On 27 August, HS2 Ltd offered the RSWT a caveated assurance, as suggested in our hearing. Correspondence has continued and we are encouraged by this progress. Shortly before agreeing this report we heard that RSWT had accepted the assurance.”

Promoter’s Response

42 While it is recognised that the Royal Society of Wildlife Trusts would have preferred something more ambitious, the Promoter agrees with the Select Committee that the assurance offered to and accepted by them is the most appropriate way of addressing the concerns of the Trust.

Parish Council of Ingestre with Tixall Parish Council (Petition 18, heard on 29 July)

43 In paragraph 132 of the report the Select Committee said:

“We could not agree to the petitioners’ request for direct compensation for the church, as the anticipated loss of revenue would be hard to quantify and the repairs for which funding is needed would be difficult to ascribe directly to the impact of the works. However, on a suggestion from Mr Mould, we encouraged the parish councils to apply to the Community and Environment Fund when it is established. We trust that, given the historic and architectural significance of the buildings mentioned in the petition and their significance to the local communities, the Fund will look kindly on any such application if it were to be made.”

Promoter’s Response

44 The Promoter welcomes the Select Committee’s decision regarding the Parish Councils’ request for direct compensation for the church and thanks it for encouraging the Councils to apply to the Community and Environment Fund (CEF). HS2 Ltd has shared information on the CEF with the Parish Councils and anticipates them making an application when the fund opens after Royal Assent to the Bill.

¹² See U&A Ref ID C100.1 on the HS2 Phase 2a Register of Undertakings & Assurances.

Ingestre Park Golf Club (Petition 29, heard on 2 September)

45 In paragraphs 136-139 of the report the Select Committee said:

“Request 1 as noted on the petitioners’ evidence slide A10(7) was no longer a live issue, as it was plain that HS2 were working to keep the Golf Club in existence as directed by the House of Commons Committee’s Second and Third Special Reports. **The promoter wishes to retain the theoretical option of extinguishment, but we are persuaded that this is merely to retain some control over the costs of redevelopment and the future use of the Club as a community asset.**

Request 2 was reformulated, so that we were now being asked to direct that the carrying out of the diversion of the Cadent Gas pipeline be delayed to 1 January 2023. **But to do that would have major implications for the overall programme of works for Phase 2a, in terms of both delay and cost, which would be wholly disproportionate to such assistance it might give to the development of the reconfigured course.** Mr Alan Walker, the promoter’s expert witness on golf clubs, suggested some ways in which the course could be put to effective use during the works. **While he did not agree on these matters with the petitioner’s witness, Mr Bob Hunt, it seems to us that the proposals put forward by Mr Hunt, contingent as they were on delaying the work on the Cadent pipeline, are not workable. We encourage the petitioner to work with the promoter to produce the best viable scheme under the circumstances.**

Request 3 asks for a direction to use “best endeavours” to secure the third party land prior to Royal Assent. **That would place an unacceptably strict obligation on HS2 to use every effort necessary to secure that result. HS2 indicated that they were seeking to achieve this result as soon as possible. That is as much as can reasonably be expected of them, so no direction to do that is needed here.**

As for requests 4 and 5, the results that are being looked for here depend on active and meaningful cooperation between the parties. **Given the directions already made by the House of Commons in that regard, there is nothing that we can usefully add. On the whole, we consider that HS2 are doing as much as they reasonably can to accommodate the Golf Club.”**

Promoter’s Response

46 The Promoter welcomes the Select Committee’s decisions on the various requests of the Golf Club and will continue to work with the Club to provide reasonable assistance to it and to fund the reasonable costs in moving part of the course onto adjacent land, in line with the assurances already given to the Club. The Promoter also notes that the Select Committee encourages the Club to work with HS2 Ltd to deliver the best viable scheme under the circumstances.

The Woodland Trust (Petition 24, heard on 3 September)

47 In paragraphs 57 & 141 of the report the Select Committee said:

“Another issue raised by the Woodland Trust has been the number of new trees that should be planted in order to make good losses of existing trees. It is conceded that the number to be planted should considerably exceed the number lost, but the use of

a multiplier to determine how much new planting there should be has been controversial. **The Woodland Trust has argued that a ratio of 30:1 should be applied, meaning that 30ha of new trees should be planted for each hectare that is lost. Like the House of Commons Select Committee and Lord Walker's Committee on the Phase 1 bill, we feel that creating new woodlands on that scale in this area would be excessive.** In particular, it would impose unfair burdens on farmers who would lose more land to tree-planting in addition to the productive land which they will lose to the line of route and to embankments, borrow pits, access routes and other permanent or temporary purposes. HS2's proposed new woodland planting for this section of the line extends to about 78ha, with a further 13ha of ancient woodland enhancement. This is considerably less than the total area that would be required if the Woodland Trust's mechanistic formula were to be applied, but we consider its application to be unnecessary as well as undesirable. Four funds have been announced since the Phase 2a bill was deposited, including the Phase 2a Woodland Fund, amounting to £2 million. This fund is intended to help landowners to create new native woodlands and restore existing ancient woodlands on their own initiative. We are told that estimates to date indicate that it can reasonably be expected that a further 170ha of new woodland could be created and 100ha of ancient woodland sites restored by allocations made from this fund.

We are not persuaded that there is a sound basis for the 30:1 ratio, as it does not seem to be based on any scientific evidence: see also Chapter 3, Planning and the Environment, para 57. In any case, according to the promoter's witness Mr Miller, 9.8 hectares (ha) of ancient woodland lost under the scheme will be replaced by 78ha of new woodland planting and 13.4ha of woodland enhancement. **The community development fund, enhanced by a further £2 million biodiversity fund, will enable up to a further 170ha to be planted outside the bill limits by farmers who are more receptive to doing that than those who are already losing land under the scheme. We consider that this is a sufficient response."**

Promoter's Response

- 48 The Woodland Trust's request for a 30:1 ratio has been a recurring theme and the Promoter notes that this Select Committee has come to the same conclusion as its predecessors in that there is no sound evidence for such an approach. The Promoter welcomes the Select Committee's endorsement of the measures which will partly compensate for the ancient woodland unavoidably lost as a result of the construction of Phase 2a, as set out in the Phase 2a Ancient Woodland Strategy. Further to these measures the Promoter has committed an additional £2m to extend the Woodland Fund to Phase 2a, which it is estimated could deliver approximately 170ha of new woodland planting to further compensate the loss of ancient woodland.
- 49 In addition, as the Select Committee notes, a further £2m will be provided for projects to deliver biodiversity initiatives.
- 50 In paragraph 142 of the report the Select Committee said:
- "On veteran trees which may be encountered anywhere along the line of route, we encourage HS2 to look carefully at the impact of temporary works to preserve as many of them as reasonably possible as, indeed, Mr Miller suggested in his evidence would happen during the detailed design stage."**

Promoter's Response

- 51 Measures will be adopted to protect ancient and veteran trees affected as a result of temporary and permanent works through implementation of the Code of Construction

Practice.¹³ These measures will be considered during detailed design on a site by site basis. Where the loss of an ancient and veteran tree is unavoidable, consideration will be given to the appropriate measures to partially compensate for its loss.

52 The Promoter has also given an assurance to the Woodland Trust requiring the nominated undertaker, while carrying out the authorised works, to ensure that of those trees identified as veteran trees in the veteran tree report shared with the Woodland Trust, no more than nine veteran trees are to be removed or damaged as a result of temporary construction works, save in unforeseen circumstances.¹⁴

53 In paragraph 143 of the report the Select Committee said:

“We do not think the Woodland Trust and HS2 are in a position to conclude the sort of legally binding undertakings sought by the petitioner, as none of the land directly affected by the scheme is in the Trust’s ownership. However, on the source of seeds and planting stock we have more to say.”

Promoter’s Response

54 The Promoter notes the Select Committee’s rejection of the Woodland Trust’s request for assurances that have already been offered and accepted to be given as undertakings. Assurances and undertakings are an important means of providing certainty for petitioners. They are equally important, and both are binding upon the nominated undertaker. The Promoter agrees that the choice of whether to use an assurance or undertaking needs to be based on which approach is most appropriate. There is also the need to guard against inadvertently giving the impression that one has more value than another. As such, the Promoter welcomes the Select Committee’s findings in this respect.

55 In paragraphs 144-145 of the report the Select Committee said:

“The promoter had already offered an assurance to the Trust that the Secretary of State would require the nominated undertaker to grow all trees for the proposed scheme in the UK, and to seek to use planting stock for ancient woodlands compensation measures that is sourced and grown within the UK: see assurance letters dated 5 June 2018 and 25 October 2019. **But the Committee notes with some concern Mr Miller’s evidence that the promoter seeks to follow a seed mix of 1/3 of seed from the same region of provenance, 1/3 of seed from sources up to 2 degrees south of the growing site and 1/3 of seed from slightly warmer climate sources from 2 to 5 degrees of latitude further south than the site.** Although this is the strategy that was established for Phase 1, it appears to us to be a departure from the assurance in the assurance letters that the nominated undertaker will be required, when sourcing tree seed stock for the purposes of the proposed scheme, to use reasonable endeavours to secure such seed stock from the United Kingdom, whilst recognising that, in line with planning for future resilience to climate change, “some” seed stock is to have a origin and provenance from 0 to 5 degrees latitude south of the planting location. The word “some” does not suggest that a majority of the seed stock would come from there, let alone as much as one third from 2 to 5 degrees of latitude further south.

¹³ See <http://www.gov.uk/government/publications/draft-code-of-construction-practice-for-hs2-phase-2a> for a copy of the draft Code of Construction Practice.

¹⁴ See U&A Ref ID C50.9 on the HS2 Phase 2a Register of Undertakings & Assurances.

The Committee accepts that the use of a portfolio approach and the proposal to source one third of seed from the same region of provenance is in line with the Forestry Commission's recommendations supported by Natural England. It notes too that it is not necessary to go outside the United Kingdom and Ireland to find sources for seed stock up to 2 degrees south of the planting location. But looking for sources further south than that will mean that the seed stock would have to be imported from the Continent, with all the well-known risks that this would involve. To derive as much as one third from that area of provenance seems to the Committee to be excessive in view of the risks, notwithstanding the precautions that are referred to in the promoter's evidence. **The promoter should therefore provide Natural England with a fresh assurance stating that it will use reasonable endeavours to secure that at least two thirds of the seed stock will be sourced from the UK and Ireland. It should also review, and if necessary amend, its strategy for procurement of the remaining one third in consultation with HS2 Working Group before any final decisions are taken about that source."**

Promoter's Response

- 56 The Promoter has consulted Natural England and the Forestry Commission on the best means to apply the decision of the Select Committee with regards to native plant material secured for use in mitigation tree planting for Phase 2a. The Promoter has given Natural England an assurance that:
- it will use reasonable endeavours to source at least two thirds of the required seed stock from Great Britain;
 - it will consult with Natural England and the Forestry Commission to ensure the remaining third is procured from an appropriate region of provenance with a view to securing, where practicable, as much seed stock from local provenances within Great Britain to minimise the requirement for non-British sources whilst ensuring the best opportunity for resilience to climate change; and
 - all seed stocks and suppliers will comply with the latest biosecurity certification standards.
- 57 This will ensure a proactive approach to climate change resilience, whilst adopting a balanced provenance portfolio for mitigation planting.

Staffordshire Wildlife Trust (Petition 33, heard on 7 September)

- 58 In paragraph 148 of the report the Select Committee said:
- "We thought that HS2 was doing a reasonable job with respect to biodiversity and habitats and noted the commitment by both the petitioner and the promoter to continue discussing these issues in a constructive manner alongside Natural England and the Ecology Review Group, of which Staffordshire Wildlife Trust is a member. It did not appear that there was anything further that we could do to assist that process."**

Promoter's Response

- 59 The Promoter welcomes the Select Committee's endorsement of HS2 Ltd's work with respect to the adequacy of its assessment and its proposals for mitigation and compensation in relation to biodiversity. The Promoter takes very seriously its

responsibilities related to the ongoing engagement with relevant stakeholders regarding these matters, and welcomes that the Select Committee did not feel that there was anything more that they needed to do in this respect.

Anthony, Jane, Sam and Sarah Parrott; Messrs Richard and Colin Smith; Messrs J S Madders and Sons (Petitions 4, 8 and 10)

60 In paragraph 149 of the report the Select Committee said:

“These petitioners had settled with HS2 before the hearing and a statement agreed between them and HS2 was read out by Ms Lean on 9 September. We encouraged the quick finalisation of the agreements in time for our report. We have since heard that heads of terms have been agreed for the acquisition of land and that solicitors for both sides are taking forward the legal agreements. The promoter issued an assurance on 3 September that they would continue negotiations in good faith to complete documentation as soon as reasonably practicable prior to Royal Assent. **We understand that the documentation was very close to being completed at the time we agreed this report.**”

Promoter’s Response

61 Meetings between the parties continue and good progress is being made. The Promoter hopes to be able to exchange contracts later this month or early next.

Edward Nield (Petition 7, heard on 9 September)

62 In paragraph 153 of the report the Select Committee said:

“We noted that, while Mr Nield would lose the opportunity that was mentioned, access to his land by means of the private lane from Bar Hill Road would be maintained in approximately the same manner as at present. **As for his plans for housing development, we did not feel that there was anything we could do, due to their speculative nature, to meet his concerns.**”

Promoter’s Response

63 The Promoter welcomes the Select Committee’s decision on this issue.

Messrs B & R Deane (Petition 9, heard on 9 September)

64 In paragraph 156 of the report the Select Committee said:

“**We appreciate that the timing of the payments and the valuation of the land are key issues for the Deanes, but we do not feel that we can intervene on the matter. Instead we urge HS2 to make further efforts to reach a resolution as soon as possible. We must stress that any disputes about the final purchase price which cannot be resolved by agreement are a matter for the Upper Tribunal and not this Committee.**”

Promoter's Response

- 65 The Promoter welcomes the acknowledgement by the Select Committee that disputes on the final purchase price for land compulsorily acquired which cannot be resolved are a matter for the Lands Tribunal, and not the Select Committee.

Theo Clarke MP (Petition 37, heard on 10 September)

- 66 In paragraph 159 of the report the Select Committee said:
“Ms Clarke also raised the issue of the Hopton cutting which had, at a previous point in planning, been envisaged as a cut-and-cover tunnel. Her petition suggested various cut-and-cover and bored tunnels as alternatives to the current proposal. It seemed to us that this matter had been settled and that any variation at this point would require an Additional Provision. **We therefore concluded that there was nothing we could or should do about it.**”

Promoter's Response

- 67 The Promoter welcomes the Select Committee's decision on this issue.
- 68 In paragraph 160 of the report the Select Committee said:
“Ms Clarke argued that there was some uncertainty over the traffic impact of the scheme across the whole route and how the various individual traffic impacts would interact. **We would encourage HS2 to work closely with stakeholders to ensure that the full impact is well understood.** We requested further information from HS2 on the timing of the Local Traffic Management Plans and on the route wide traffic management plan. That information was provided to us on 14 September and has been published on our webpages.”

Promoter's Response

- 69 The Promoter is committed to ongoing engagement with affected stakeholders. HS2 Ltd has developed a comprehensive community engagement strategy. This draws upon local teams as well as internet resources such as the Commonplace websites that contain easily accessible information across the whole route. Through these channels, as more details become available through future work, such as the development of Local Traffic Management Plans, it would be effectively communicated to stakeholders.
- 70 In paragraph 161 of the report the Select Committee said:
“A further issue raised by Ms Clarke was the length of time taken to resolve compensation claims. On 17 September the promoter provided us with details of unsettled claims in the Stafford constituency. Of 39 statutory cases, 22 had been resolved, blight notices had been accepted in 12 cases and blight notices received but not yet accepted in five cases. For non-statutory cases, 52 had concluded, 13 were undergoing the valuation process and a decision was pending on 4 cases. **We fully appreciate the anxiety caused to those left in an uncertain situation by delays in the settlement of claims, and we urge HS2 to act as quickly as possible to resolve outstanding issues.**”

Promoter's Response

- 71 The Promoter appreciates the anxiety caused during the process of purchasing

property under either compulsory purchase or the non-statutory schemes. The Promoter will continue to seek to resolve outstanding settlements as soon as possible but, in a minority of cases, issues become protracted, which – as the Select Committee has acknowledged elsewhere - is not always the fault of the Promoter.¹⁵

72 In paragraph 162 of the report the Select Committee said:

“We note that the mechanism to allow Ms Clarke to petition on behalf of her constituents was not ideal, requiring the intervention of the Standing Orders (Private Business) Committee and leaving Mr Lefroy’s petition in limbo, neither withdrawn nor able to proceed. When the Private Business Standing Orders of both Houses were changed to allow MPs to petition it was perhaps not envisaged that an MP might cease to be an MP while their petition was still live. **We make no particular recommendations in this area, but suggest that this might be an issue to be considered in any future review of hybrid and private business procedures.**”

Promoter’s Response

73 The Promoter notes the Select Committee’s suggestion and agrees that this is something for the House authorities to consider when the Standing Orders for Private Business are next reviewed.

Woore Parish Council (Petition 13, heard on 14 September)

74 In paragraph 164 of the report the Select Committee said:

“The petitioner’s primary argument was that the construction traffic should be re-routed. By the time of the hearing they had abandoned a previous proposal to re-route the traffic via Manor Road. However, they persisted with a proposal to create an exit from the M6 at Keele Services and route the traffic partly via the disused Stoke to Market Drayton rail line. **We could not consider either of these options, as they would require an Additional Provision or a Transport and Works Act Order, a position we made clear in our ruling on 29 July.**”

Promoter’s Response

75 The Promoter welcomes the Select Committee’s decision on this issue.

76 In paragraph 166 of the report the Select Committee said:

“We were shown an air quality report monitoring report prepared by Ove Arup & Partners Ltd which satisfies us that no significant effects would be anticipated during construction and operation of the scheme. The promoter’s witness, Mr Smart, told us that there would be an ongoing process throughout the project to reduce the flow of traffic through the village by measures such as improvements to the site haul routes. A number of local road safety measures have also been proposed by the promoter, including reductions in speed limits, the upgrading of an existing pelican crossing to a puffin crossing and the provision of a traffic warden to assist children needing to reach the primary school. **These are important matters affecting the safety of the public that need to be discussed between the Parish Council, HS2 and Shropshire County Council, and we urge all parties to have those discussions as soon as possible. We note that the Commons Committee directed HS2 to**

¹⁵ See paragraph 109 of the report.

fund the provision of a traffic warden. We were told that Shropshire Country Council were not disposed to provide one when asked. It seems to us, however, that this proposal has obvious merit and that it too should be taken seriously.”

Promoter’s Response

- 77 The Promoter provided an assurance to the Parish Council in March 2020 that it would continue to engage in order to agree a package of road safety and traffic calming measures to be funded by HS2 Ltd, subject to approval by Shropshire Council as the local highway authority.¹⁶ In light of the Select Committee’s comments the Promoter has given the Parish Council an assurance that provision for a School Crossing Patrol Officer will be included in the proposed package of measures, also to be funded by HS2 Ltd. The School Crossing Patrol Officer would be provided during term time for the period that the A51 and A525 through Woore are in use as a construction route.¹⁷ The assurance also provides that if Shropshire Council does not give its approval to the provision of a School Crossing Patrol Officer then the funding would be made available for any other reasonable road safety measures that they feel would offer greater benefit.

Yarnfield and Cold Meece Parish Council, Stone Town Council and Chebsey Parish Council (Petition 23, heard on 15 September)

- 78 In paragraphs 167-169 of the report the Select Committee said:

“The petitioners had appeared before the Commons Committee with a proposal to relocate the Stone IMB-R to Aldersley’s Rough. That Committee, which heard evidence from the promoter’s witness Mr Smart, did not consider Aldersley’s Rough to be a viable solution.

The same proposal was brought before this Committee. However, our ruling of 29 July on Additional Provisions (see Appendix 2) precluded our hearing argument about the relocation, and we made it clear that we would not consider recommending relocation by means of an order under the Transport and Works Act 1992.

Nonetheless, we were presented with extensive argument about why the petitioners considered Stone to be an unviable location for the IMB-R. They made it clear that they were sceptical of HS2’s plans for its construction and the engineering assumptions underlying them, and that they thought them unfeasible.

We are in no position to judge that issue, but we can see no reason why we should not accept the evidence of Mr Smart which was given in good faith to our Committee. If it subsequently proves unfeasible to locate the IMB-R at Stone as the petitioners contend, it will be for HS2 to resolve the issue within the powers of the Bill. The argument on both sides can be found in the transcripts of the hearing of 15 September which, together with the associated evidence, are on our website.”

¹⁶ See letter of 13 March 2020 from HS2 Ltd to the Clerk to Woore Parish Council.

¹⁷ Construction route means an application for, and approval of, a route for Large Goods Vehicles to use the A51 and A525 in accordance with Schedule 17 of the Bill.

Promoter's Response

79 The Promoter welcomes the Select Committee's decision on this issue, and that the location of the Infrastructure Maintenance Base-Rail at Stone as proposed in the Bill should not be amended.

80 In paragraph 171 of the report the Select Committee said:

"The third request related to an access road to the IMB-R compound, within the bill limits, which the petitioners argued would create an unsafe junction. Mr Mould argued that final authorisation for the junction would rest with the relevant highway authority, who could oppose it on grounds of safety. **We are satisfied that this is a matter of detail best left with the appropriate local authority within the framework provided by the bill. That is sufficient to ensure the safety of the junction for our purposes.**"

Promoter's Response

81 The Promoter welcomes the Select Committee's decision on this issue. The detailed design of the proposed highway access to the Stone IMB-R from Yarnfield Lane would be subject to road safety audit and the approval of the local highway authority.

Newcastle Road Residents, Hanchurch (Petition 22, heard on 15 September)

82 In paragraph 174 of the report the Select Committee said:

"The Committee has a lot of sympathy for the residents, whose lives are likely to be heavily affected by the proposed changes. **The proposed works do appear to be necessary, but we urge HS2, Highways England and Staffordshire County Council to engage positively and swiftly with the residents to ensure that whatever traffic calming measures are possible are incorporated into the plan.**"

Promoter's Response

83 The Promoter notes the request from the Select Committee for the Promoter and relevant highways authorities to engage positively and swiftly with the Newcastle Road Residents. The Promoter has already given an assurance to Swynnerton Parish Council requiring the nominated undertaker to engage with the local highway authority and Highways England to seek to address the Newcastle Road Residents' safety concerns in relation to the A500 Queensway and the A519 Newcastle Road.¹⁸ To provide further reassurance to the Newcastle Road Residents, the Promoter has given an additional assurance to continue engaging with the residents through the HS2 Ltd Community and Stakeholder Engagement Team.

84 In paragraph 175 of the report the Select Committee said:

"We heard that it would be difficult to create a roundabout at the southern end of Newcastle Road, where it joins Whitmore Road, due to the layout of the roads there. But we consider that some means of allowing a U-turn there to avoid the need for residents to turn right on leaving their properties, or to create spaces in the flow of traffic moving along Newcastle Road towards the

¹⁸ See U&A Ref ID C123.2 on the HS2 Phase 2a Register of Undertakings & Assurances.

roundabout by the use of traffic lights, would help enormously and should be seriously pursued.”

Promoter’s Response

- 85 The Promoter has considered options for the provision of a U-turn facility for local residents in the vicinity of the A519 Newcastle Road. The challenge in providing a new U-turn facility is achieving the right balance that addresses safety considerations and minimises the impacts on traffic congestion. Options for a new U-turn facility would be constrained by the powers and limits in the Bill, although there may be scope through further engagement with Swynnerton Parish Council and Staffordshire County Council to identify opportunities for a local U-turn facility for residents in the Hanchurch area.
- 86 The signalisation of the A519 and the A500 roundabout at Hanchurch to provide gaps in the southbound traffic flow would be a matter for further consideration with Highways England and Staffordshire County Council. As part of the detailed design process, the Promoter would continue to work with Highways England and other stakeholders to explore opportunities for the improvement of the A519/A500 junction.

Sharon and Martin Mawbey (Petition 34, heard on 16 September)

- 87 In paragraph 177 of the report the Select Committee said:
- “They have been negotiating with HS2 for some time in order to achieve clarity on how, and when, the scheme would affect them. They are entitled to compensation under Schedule 15 of the Bill for losses they may incur as a result of being disposed during the construction period. The main focus of attention has been on arrangements for early funding by means of an advanced mitigation agreement to meet the cost of relocating facilities and business losses resulting from the proposed scheme. **By the time of the hearing the Mawbeys appeared to be well on the way to resolving their issues with HS2. We urge both sides to continue to negotiate constructively in order to reach agreement.”**

Promoter’s Response

- 88 The Promoter welcomes the Select Committee’s decision and acknowledge the recognition that “by the time of the hearing, the Mawbeys appeared to be well on the way to resolving their issues with HS2”. The Promoter notes that the Select Committee encourage both sides to continue to negotiate constructively, and for its part HS2 Ltd has given an assurance to Mr & Mrs Mawbey that they will use reasonable endeavours to reach a final agreement as soon as practicable on terms that are agreeable to both sides.
- 89 In paragraph 178 of the report the Select Committee said:

“We strongly counsel the Mawbeys to seek professional assistance in those negotiations, the reasonable costs of which HS2 has said it would fund.”

Promoter’s Response

- 90 The Promoter strongly agrees with the Select Committee’s recommendation that Mr & Mrs Mawbey seek independent professional assistance. HS2 Ltd has already agreed to pay the reasonable costs of such advice and will once again write to Mr &

Mrs Mawbey to reiterate the recommendation and the offer.

William Murray (Petition 36, heard on 16 September)

91 In paragraph 181 of the report the Select Committee said:

“Mr Murray finds himself in exceptional circumstances. Due to health reasons he cannot tolerate the HS2 works and his current way of life will be severely compromised. While he is not entitled to receive anything more than the unblighted market value of his property, HS2 has gone further in offering to pay his relocation costs, including for professional advice. We think they should go even further. **In recognition of the very specific circumstances in which Mr Murray finds himself, as he is in effect being forced to move, we consider that HS2 should provide Mr Murray with an additional payment of £10,000 akin to the home loss payment. We wish to stress, being conscious not to set too wide a precedent, that we consider Mr Murray’s circumstances to be exceptional.**”

Promoter’s Response

92 The Promoter acknowledges the Select Committee's view on Mr Murray's exceptional circumstances with regard to his age and health, in addition to the impact of widening Snape Hall Road and his access to the bus stop at Baldwin's Gate. The Promoter acknowledges the exceptional personal circumstances in this case and recognises the need to adjust Mr Murray’s atypical acquisition offer; HS2 Ltd has written to him accordingly.

David and Sian Froggatt (Petition 28, heard on 16 September)

93 In paragraph 183 of the report the Select Committee said:

“One of the Froggatts’ chief requests was for the construction of a bund between the railway track and their property to mitigate noise. Of particular concern to them is the impact on horses using a manège on one part of the property. Mr Thornely-Taylor, the promoter’s witness, gave a persuasive explanation of the likely noise impacts, drawing on his experiences as a breeder of thoroughbred racehorses, and of the relative ineffectiveness of a bund because of the distances involved. **We accept his evidence, and do not recommend any further noise mitigation to address this issue.**”

Promoter’s Response

94 The Promoter welcomes the Select Committee’s decision on this issue.

95 In paragraphs 185-186 of the report the Select Committee said:

“The construction of the bridge is a large undertaking likely to be of benefit to others in the area, including users of the public footpath and in particular the owners of Woodhouse Farm, Mr and Mrs Daw, as this is their only means of accessing a proposed reed bed system on part of their property to the west of the railway line. **We agree with HS2 that, having regard to the various private and public rights involved, it is more appropriate for the road to be publicly owned. However, it is clear that HS2 must work with the Froggatts and the Daws to establish how access rights will be controlled and on the detailed requirements of the bridge.**

HS2 had given an assurance to take the reasonable requirements of the petitioners into account in specifying the width and load-bearing capacity of the bridge so that it is able to accommodate their present and foreseeable future needs. **We are pleased to hear that a further assurance, dated 23 September, has now been given addressing both the construction of the bridge and the granting of access rights over it and the north drive to the petitioners.**

The Froggatts are concerned about the security implications for their fish farm of greater access to the site, as well as other impacts of the works. They are asking for security fences and CCTV to be provided and for the regular and frequent monitoring of water quality, dust, noise and vibration. **Mr Mould recognised that special arrangements needed to be made. He gave a commitment in the hearing that a working group to discuss these matters would start meeting well before 31 December 2020. We expect that commitment to be honoured by both sides. Any further requests relating to the fish farming business should be settled in that forum. We note that the assurance letter of 23 September commits to a risk assessment of impacts on the fish farm.**

Promoter's Response

96 The Promoter will continue to engage with Mr & Mrs Froggatt in accordance with the assurance of 23 September 2020.

97 In paragraph 187 of the report the Select Committee said:

“A further request relates to roof-mounted photovoltaic panels on the Froggatts’ property. The petitioners are concerned about the effect of dust from construction work and a nearby borrow pit on the effectiveness of this equipment. They seek an assurance or indemnity in the case of reduced capacity, increased cleaning requirements and reduced life expectancy. **Mr Mould suggested that these issues could be dealt with by means of the HS2 small claims scheme. We are satisfied with that response.**”

Promoter's Response

98 The Promoter confirms that if such issues arise during construction, they will be considered under the small claims scheme.

99 In paragraph 188 of the report the Select Committee said:

Lastly, they object to a proposal to acquire a new wayleave to install a BT line to serve Quintons Orchard Farm, as this risks further narrowing their already narrow south drive and because they believe that the existing BT line along their north drive is perfectly satisfactory and offers better Broadband connectivity. They asked for a direction that this proposal should be abandoned. **The promoter indicated that it was able to agree to the alternative routing that was asked for, and pointed out that it has already undertaken in the House of Commons to engage with the relevant Department to understand how the construction of Phase 2A may provide opportunities for superfast broadband. There is no action we need take on this issue other than to encourage the parties to conclude their negotiations as soon as possible.**”

Promoter's Response

100 The Promoter will continue to engage with Mr & Mrs Froggatt on the potential relocation of the BT utility diversion referred to, in accordance with the assurance given to Mrs & Mrs Froggatt on 16 September 2020.