

75. CHAIR: Thank you. Any brief final comment from the manager?

76. MR LEWIS: I told Mr Vakil that he wouldn't have to say anything. If you want to say anything more, Hilary, please do.

77. CHAIR: Do you want to make any further comments? You gave evidence before.

78. MRS PRINCE: No, that's fine.

79. CHAIR: Thank you. We now move on to AP4178, Robert Brown represented by Bidwells.

Robert Brown

80. CHAIR: We have the map up on the monitor. Welcome, Mr Briggs.

81. MR BRIGGS: Good morning, chairman. I am back again. I assure you that this will be my last time. Mr Chairman, we came to the Committee on 24 November in respect of Mr Brown and the Bertylib Partnership, and we will deal with both this petition and the following one together as we did last time because the landlords and tenants do work together in this respect.

82. You may recall, Mr Chairman, if we go to A21021, please, Hunts Green Farm, which has been tenanted by the Brown family for a number of generations.

83. SIR PETER BOTTOMLEY: If we look at A15646, we are north of Great Missenden?

84. MR BRIGGS: Yes, Great Missenden, near the Leigh.

85. SIR PETER BOTTOMLEY: Thank you.

86. MR BRIGGS: After the last hearing, Mr Chairman, we went away to have further discussion with HS2 because you recall the concern was the area of land that was to be taken on the farm for the temporary soil storage during the works. I am pleased to say that we have had some further discussions. We had a meeting with HS2 earlier in the year and we have made some progress but probably not enough.

87. Could we go to the next slide, please? This is probably a very useful plan to work to. Initially under AP4 the areas that were to be taken for the soil storage were what I refer to on this plan as areas C, H, E, F and G. We put forward a proposal to move the material to area A, which is to the west of the line if I have my orientation correct. We have subsequently had some further discussions with HS2 about area B, which is at the top of the plan. Subsequent to that, HS2 have come back and indicated that they are prepared to use, subject to obtaining the necessary planning consent, area B and area A, which would then remove the requirements for areas C and H, which you may recall were the areas of permanent pasture, which were of significant concern to us.

88. If we go to the next slide, there is a commentary there from the Berks, Bucks and Oxon Wildlife Trust in the third paragraph down about the fragile habitat in that grassland. If I go back to the previous slide again you will probably recall that our further concern was the bird reserve in area D which Mrs Stewart-Liberty had planted in memory of her late husband. We were very concerned about the proximity of the works to the birds that were undoubtedly thriving in that location.

89. Where we are now is that subject to getting the necessary planning consent there is agreement in place with HS2 that they would use areas A and B, which would reduce the need for C and H. If we can achieve the necessary consent, that is great. However, we still think that there is too much of a requirement in the areas E, F and G and we would like to explore with the Committee an agreement with HS2 to reduce these areas still further. Our preference would be to utilise areas A and B in a greater way than has currently been proposed and also to look at area I which you will see, which is in the bottom west area.

90. Area I is currently in the ownership of the adjoining property known as Cottage Farm. You may recall, Mr Chairman, that I came to this Committee in early January about HS2 purchasing Cottage Farm under the Need to Sell scheme. I am pleased to say that we have made progress in respect of that and whilst things are not yet finalised, we would put forward a proposal that if HS2 do acquire Cottage Farm under the ATS, that area of land will be available.

91. SIR PETER BOTTOMLEY: They can use their own land?

92. MR BRIGGS: Exactly. So that, hopefully, sets the scene for you in that respect.

Our concerns principally are these. The areas F and G are far better quality land than the areas of A and B and if we take those areas we will still be creating a great deal more storage for the topsoil because the topsoil areas are 400 or 500 millimetres thick, whereas areas B and A, being on a Chiltern escarpment, is probably only 150 millimetres thick. That creates a significant reduction in the spoil storage that we have need for, for the temporary topsoil. We therefore believe that by judicious use of areas A, B and I we can accommodate virtually all of HS2's needs for soil storage without going at all on the eastern side of the trace.

93. If I can illustrate the topography, which you may or may not be aware of, A21027 is looking from area A down to the A413. You will see that there is quite a slope there. If we also go to the next slide, you will see the reverse coming up and where those two little dots are – one of them is Mr Brown – is approximately the position of the trace running at the top of the hill. So, what we are talking about is putting spoil on a slope. We think that there will be far more scope to put volumes in there because of the natural topography.

94. SIR PETER BOTTOMLEY: So, the land that is good, if it is physically possible, and the capacity is great?

95. MR BRIGGS: Yes. This is more starkly illustrated in the next slide and the one after. So, if we look at the next slide, this goes to area B. Imagine that the trace is running to the right of the photograph on your left and you have a dip. If you go to the next slide you will see that this dip is actually quite a significant bowl where we feel that there is capability of taking a good deal of volume of soil there, far more than the three metres that HS2 are suggesting and we would ask that the Committee direct HS2 to perhaps be more ambitious with their plans in this respect.

96. Trying to talk about volumes in various pictures is more difficult and it is probably easier to do it on a couple of tables, one of which is the next slide. The current proposal from HS2 is to take what I would call A, B, E, F and G, which is 624,000 cubic metres. We agree with A and B although we do not feel that A or B have particularly identified the full potential of the capacity. In A there has been a reduction because of Grim's Ditch, apparently, which we find slightly amusing given that Grim's Ditch will be obliterated by the trace. We are not quite sure why there is a restriction of this volume

here. If we look at the next slide, we believe that by using area I and the full volume of A based on HS2's figures before the Grim's Ditch reduction and using HS2's figures for area B, we can get to 584,000 cubic metres, which is just 40,000 cubic metres short of HS2's volume requirements. HS2's requirements there have been overestimated because we do not think that full allowance has been taken because of the reduction in topsoil storage requirements. We come back again to the ambition of HS2 and their soil movements. If one looks at their figures, initially they start off with 15 vehicle movements a day rising up to 450 vehicle movements per day. We do feel that there will be a tendency just to use this as a permanent area for storage, and material will remain there for far longer than should be required. I used the analogy last time that if we were in an area of Central London or further constrained with this type of soil movement, HS2 would have found a way to have dealt with it. It just seems to me that this is something that is nice to have rather than a necessity.

97. That said, we are prepared to be flexible. If I go back to A21202 I can point out that there is an area between the woodland here running parallel to the trace there which we think is approximately about 50 metres in width, almost a sausage going down.

98. SIR PETER BOTTOMLEY: So, if you extend the green?

99. MR BRIGGS: For the little square planting at the top, running straight down to the bottom area, we think that that could easily take a capacity of 60,000 cubic metres.

100. SIR PETER BOTTOMLEY: So, it is the near track part of F and D?

101. MR BRIGGS: Yes, re-profiling and planting. We think that that would adequately accommodate the requirements. More importantly, it would save the farm because it's keeping the most productive areas of the farm and would allow the Brown family to continue to farm there as they wish to do. The areas that we are offering there are the poorer quality farming areas, the marginal areas, if you like.

102. SIR PETER BOTTOMLEY: What's the bit just to the north of B? If you put your finger on B, it is just above it.

103. MR BRIGGS: Yes, that's an area owned by the family. That is not in Mr Brown's tenancy but it's still owned by the family. That is in another tenancy.

104. SIR PETER BOTTOMLEY: We can't easily go through that land?

105. MR BRIGGS: As is area G, but it is still owned and controlled by the Stewart-Liberty family. I think that, in a nutshell, is our concerns, where we are and what we would like addressed. The one point that HS2 have also not identified or addressed is that in the bottom corner here in AP4 they have cited a mid-point autotransformer station – I think that is the technical term for it anyway. We still believe that that should be sighted to the west rather than the east. Again, we are trying to preserve as much as we can of this area E which is so important to Mr Brown. We haven't had a response on as far as I am aware.

106. MR MOULD QC (DfT): I think I dealt with that with the Committee last time you appeared.

107. MR BRIGGS: Well, we still have an issue with that, Mr Chairman, and we're still not convinced with the discussions. If we go back to the design on AP2, which was far less intrusive area of land in E and F, we are still not sure why that seems to be now inappropriate. What we effectively suggest, to make up the volume, is if we go back to the AP2 design, the promoter referred to further mitigation earthworks but we have never been given an explanation of actually what they are. Effectively we are offering now A, B and we think that I would work, plus going back to the AP2 plans, which may be – I don't know whether you still have them – on A1642-12. I don't know whether you would be able to find that.

108. MR CLIFTON-BROWN: If HS2 say that what you have offered is not enough – Peter asked about the area to the north west – what about the little tiny bit of area to the south east? It looks as though there is a hedge line there. Could it go down to the hedge line?

109. MR BRIGGS: The area in between A and B?

110. MR CLIFTON-BROWN: Yes, the little area going further south east.

111. MR BRIGGS: Yes, we have suggested that as a possible alternative.

112. MR CLIFTON-BROWN: It seems to me that there is a lot of logic in keeping all of the soil to the west of the line.

113. MR BRIGGS: Exactly. We have suggested that as a potential alternative. Our preference would be to keep everything, if we could, to the west of the trace rather than anything to the east. That is the whole principle because that is the most important part of our farm. Once the construction is built it will be far more difficult to get across the trace with the large agricultural machineries in the homestead. We are trying to be flexible and come up with ways of dealing with it, but certainly if the area between A and B could be used, we would be much more comfortable with that. I think that is all I have to say on it unless I've missed anything.

114. CHAIR: Mr Mould?

115. MR MOULD QC (DfT): There might appear to be a logic in putting it all to the west but that logic would leave the lands to the east with an unmitigated railway. So, for example, Mr Brown or future occupiers of his farmhouse would find that the noise from the railway was considerably greater than it would be because areas F and E are required permanently in order to provide landscape bunding and noise bunding by way of mitigation, so their use for temporary purposes is anticipation of the bunding works that are required. I can show you that on P15650 where you can see the extent of permanent earthworks that are proposed in order to mitigate this railway. Bear in mind that this is an area where you have been told by many, many petitioners that the visual landscape and oral impacts of the operational railway are a source of concern because we are running through the area of outstanding natural beauty. So, this bunding here corresponds, broadly speaking, to those areas.

116. SIR PETER BOTTOMLEY: That is the reverse of the argument we heard yesterday.

117. MR MOULD QC (DfT): Can you remind me of the argument we had yesterday?

118. SIR PETER BOTTOMLEY: We had the Oxford Canal and we were told there was not much point in providing noise mitigation because there weren't many people there and if they were they were walking and would be out of the area within 20 minutes.

119. MR MOULD QC (DfT): I have just made a landscape argument as well as a noise argument but I don't think that one should overlook the importance. This is not an

area which is devoid of residents. Mr Brown's farmhouse will presumably continue to be used residentially and I think the Secretary of State, whether the current incumbent would like him to or not, feels that he has an obligation to take such reasonable steps as he can in order to try and mitigate the noise impact, but don't misunderstand me. My point is not about noise alone. It is about landscape and visual impact because we are in an area which is statutorily designated for its landscape and visual qualities and this mitigation is required for that.

120. So, it would be a retrograde step of considerable significance to assume away a permanent landscape earthwork at that point. It would mean that the railway which, in other areas, was properly and proportionately mitigated here would not be mitigated. I don't think that that is a result that the Committee would wish to see being the consequence of the outcome of this petition.

121. SIR PETER BOTTOMLEY: C and H aren't a problem?

122. MR MOULD QC (DfT): No, exactly. I can come back now to Mr Briggs's slide because I think that there is room for further work here. I just want the Committee to have a sense of keeping this in proportion because I think that Mr Briggs started off with a proportionate proposal but with respect to him I think he then moved away from what is proportionate into something that is disproportionate.

123. If we come back to his slide, what we are able to do is to pursue proposals. We believe that we can give certainty that we will not take areas C and H if planning permission can be secured for the use of areas B and A for temporary storage of materials. Area I is, as you have heard, Cottage Farm, where the Secretary of State has accepted a Need to Sell application. So, that area also is a candidate for use for temporary storage which would increase the storage that is available and might enable us to refine the areas closer into the eastern side of the trace. But, as I say, one has to proceed on the basis that there will need to be substantial permanent earthworks in areas E, F and G for the reasons that I have just given.

124. As I say, that is subject to planning permission. The reason why that is important is because these areas, B, A and I, and indeed the lands in between are areas that are highly visible from elsewhere within the valley and if one is contemplating layering, stepping up the slope so as to create a manageable, substantial earth storage and material

storage facilities there for a number of years, one needs to be realistic about the visual impact of that. One also needs to be realistic about the degree to which it may affect other environmental factors. Grim's Ditch was dismissed, but Grim's Ditch is a scheduled ancient monument and this project has been at pains to limit its impact on Grim's Ditch because of the significance of that statutory designation. One cannot simply dismiss a further impact on that monument as being of no moment. It is something which this House has said is of moment; hence its decision during Victorian times to pass the initial Ancient Monuments Act. So, I think one needs again to be a bit careful about being too dismissive of these potential impacts.

125. That said it may well be that planning application made to the local authority for the use of these lands for storage, if it is put on the basis that firstly the project has a need for storage and secondly use of these lands, subject to appropriate environmental controls will obviate the need to take valuable and useful productive farmlands, that the planning authority will readily exceed to that application and if it doesn't it may be that on an appeal against a decision not to accede to that the Secretary of State for Communities and Local Government will see the matter differently and will see that if it is a choice between visual and landscape impacts on a temporary basis from spoil storage to the west of the line and impacts of the scale that we have been told will occur to Mr Brown's farm from storage on areas C and H, that the balance should be struck in favour of the former rather than the latter.

126. So, there is merit in the proposal that from a planning point of view areas A, B and I should be used for the purpose that is being put forward. HS2 is willing, as I think has been said, to support that proposal and to do so on the basis that that would enable us to avoid the need to use areas C and H and it would provide some further prospect of reducing the area or the intensity of temporary use of the other areas to the east of the line, but because those areas are required permanently to mitigate the railway it will not enable us to avoid earthworks and landscaping works in those areas. They are needed in order to mitigate the railway.

127. So that, I think, is the true nature of the position here. Let us now proceed to formulate proposals to put to the local planning authority with a view to persuading them that it would be in the public interest to allow areas A, B and I to be used for temporary storage of materials and in that way to minimise as far as we reasonably can

the need to deposit materials on the lands to the east that are, as he said, the most valuable and productive areas of his farm, but let us do so on a realistic understanding that that will not result in us avoiding substantial permanent deposits of material in areas E, F and G because that is needed in order to provide permanent mitigation to this railway.

128. MR CLIFTON-BROWN: That is helpful, Mr Mould. Maybe it is my misunderstanding of the situation. If you were to use A, B and possibly I, why does that require planning permission? Is it not within the powers of this Bill?

129. MR MOULD QC (DfT): No, it is not within the powers of this Bill because they don't fall within Bill limits and therefore we don't have permission or authority to do anything on those lands. Clearly, in terms of land ownership there shouldn't be a problem because we will, in due course, come to own area I and, as I understand it, areas B and A are owned by the petitioners and they are willing to make them available, but we do need authority to carry out development on those lands which we would not have under the terms of the Bill because they fall outside the scope of the Bill limits and therefore those works wouldn't fall within the scope of the deemed planning permission under Clause 19.

130. It may also be that to contemplate their use for fairly prolonged, albeit temporary deposited materials at the sort of volumes that we are talking about would give rise to a change in the significant environmental effects of the project in this area which would require a supplementary environmental statement as well. None of those things is an insuperable obstacle to securing planning permission and I have illustrated where the essential balance of advantage would be struck. Certainly, I think the project's view is that it is realistic, for the reasons I have given, to anticipate a positive outcome to an application for planning permission. It's not a guarantee but it is realistic to anticipate a positive outcome, albeit it may be necessary, as I say, to go to appeal. But given that the local authorities in this area, including the local planning authority, which I think is the Chilterns and given that Chilterns' case in response to this Bill and before this Committee has been one of looking to minimise impacts upon agricultural holdings one would hope that from a planning point of view they would be receptive to a proposal put forward both by a landowner and a farmer and supported by this project to reorganise arrangements at this point on the railway so as to reduce further the impacts on just such

a holding.

131. MR BRIGGS: Can I come back on those points?

132. CHAIR: Yes.

133. MR BRIGGS: We do not accept those arguments so eloquently put forward by Mr Mould. We fail to understand why AP2 seemed to be okay, which is effectively what we are suggesting if we have a bund running between the two woodland blocks on F and E. What Mr Mould also fails to comment on is the fact that we are having fundamental damage to the soil structure of what has been an arable farm on the Chiltern escarpment for many, many years and the damage that that reprofiling will do not only to that farm which is part of the landscape and the fabric but also to the area as a whole.

134. We have very little knowledge of the requirements of these so-called mitigation earthworks which seem to be some mystical quotation that is provided to us by the HS2 ecologists. What we think we are offering is a practical solution. My clients have owned and farmed these lands for many years. They have been in the Lee for many, many years. We are offering a practical solution here to deal with this.

135. What right does HS2 feel it has to deal with the re-profiling of the contours of the Chilterns? That is effectively what we are seeing here. We are offering a practical solution; we are talking about running a small bund between the two woodland areas on F and E, but what you see on the yellow area here is wholly unnecessary. We would like this committee to give some direction in that respect to enable us to have some further discussions – practical discussions – with HS2.

136. The further point, on the auto-transformer. Mr Mould said he dealt with that at the last hearing; in fact what Mr Mould did was he dealt with the need for it to be relocated on the farm because of the tunnel extension, but he did not say why it had to be to the east rather than to the west. All we are suggesting is to move it from one side to the other.

137. CHAIR: Thank you very much; we'll reflect on what you've put to the committee in due course.

138. MR BRIGGS: Thank you.

139. CHAIR: This is the last time is it?

140. MR BRIGGS: I hope so; I will give you that assurance!

141. CHAIR: I don't know who is more relieved, me or you! Okay, we now go to 58, AP4: 61, Mr and Mrs Michael Raffety, represented by Rebecca Clutton?

Mr and Mrs Raffety; Rafine Ltd (Trading as Turville Valley Wines)

142. CHAIR: Hello.

143. MR RAFFETY: Hello.

144. MRS RAFFETY: Hello.

145. CHAIR: Could you introduce yourself first?

146. MRS RAFFETY: Thank you for hearing our petition; Mrs Raffety, Mr Raffety. And we are also hearing representing Turville Family Wines, trading as Rafine.

147. CHAIR: Okay. We've got the map up to see where you are.

148. MRS RAFFETY: Right, so we've got the map up; you know where we are. I know you've been to see Potter Row, and I know you've heard an awful lot from our neighbours and how adversely and severely we are affected by the proposals of HS2. We've endured almost six years of worry due to this proposed scheme, being sited just a mere two metres of our boundary.

149. At last we now have the chance to express what it's like dealing with this company, HS2, wholly owned by government; and is in our view, a very poor example of democracy in action. We are the innocent victims along with thousands of others, who just happen to live in the shadow of this scheme. In order of preference, I'd like to say, in an ideal world – although Mr Mould did say on 19th, we don't live in an ideal world – that we would like to see HS2 scrapped. I know I'm not supposed to say that, but I'm going to anyway; and the money spent on something much better, which offers a better cost ratio benefit and a better benefit to the UK as a whole.