

391. CHAIR: Ok, thank you.

392. MR STRACHAN QC (DfT): I'm going to make some points just to explain the approach to ancient woodlands. I've got Mr Miller here as well to answer any particular questions you might have about the approach. But if I just go through the key points and then you can see whether you've got any outstanding questions.

393. Can I just show you P15814(2)? Just to show you the policy approach in terms of national planning policy, so you can see that as a matter of national policy, when we're dealing with development under the National Planning Policy framework, you can see one of the factors is that planning permission should be refused for development resulting in, for example, loss and deterioration of irreplaceable habitats including ancient woodland unless the need for and the benefits of the development in that location clearly outweigh the loss. And that reflects what obviously has been applied in this scheme approach of a balanced judgement that has to be made of the nature of the project, the route selection and then, where there is to be any loss of ancient woodland, obviously considering the compensation that's provided. But, as a matter of principle, it's recognised that loss of ancient woodland, although clearly undesirable and to be avoided where it can, is as a matter of policy something that can occur for these sorts of projects.

394. And you'll see reflected in a number of documents – and I'm just going to give you a flavour of it – that that recognition of the effects on ancient woodland has run through the project throughout its gestation. If I take you to P15815(2), in the 'Appraisal of Sustainability' document, you have to go down towards the bottom. You can see at 7.4.13 that ancient woodlands as part of the biodiversity assessment were recognised at an early stage in the process; and indeed their greatest abundance in this particular phase across the Chilterns. And if you carry on, in developing the project the concerns of the effects on ancient woodlands, having recognised their presence, has fed into the decisions that have been made about the line of the route.

395. And you can see that in P15815(8). No, you don't have that? Well, we're in the 'Decisions and Next Steps' document. And in that document – I don't think we can get up page 8 of that document – but you'll see, as part of the decision of the next steps, in making decisions about the project the effect of ancient woodland was identified as one

of the key factors. I can probably read it out from 6.3.3: ‘Concern was raised in relation to potential impact on ancient woodlands. The government recognised that these form an important part of our natural heritage and, as such, need to be protected wherever possible.’ It’s come up on screen now. ‘The EIA process will identify in detail the true scope of any impacts and offer appropriate mitigation solutions, for example to transplant woodland to an adjacent site or to use narrow cuttings wherever possible to avoid unnecessary land take.’ And without, of course, going in detail to the environmental statement document, you will be well aware that the identification of ancient woodlands, the effect on ancient woodlands, has formed a key part of the Environmental Statement, the route having been selected in the way it has. So there’s no doubt, on any inspection of these documents, that the recognition of ancient woodlands has been a key part of the decision process and that efforts have been made to minimise the effects on ancient woodland; and, where there are effects, to put in place compensation measures. I’m going to come to those next.

396. We recognise – and we’ve never said to the contrary – that you cannot recreate an ancient woodland through, for example, translocation. That’s never been our position. It’s not reflected in any of these documents. We recognise that, where one takes ancient woodland, you cannot simply place it onto another parcel of land and therefore create ancient woodland. But if one recognises the principle, very much as the Committee was debating a few moments ago, that a project of this nature inevitably will have some impacts on ancient woodland, the proper approach and the one that’s been identified in the Environmental Statement – and the approach we’ve taken forward – is to do what we can to mitigate for that effect. And that includes, of course, the process of translocation that Mr Miller explained in evidence earlier to this Committee. The process of translocation is to take the soils of affected ancient woodland and to place them in a suitable alternative location to do one’s best to conserve the features of the soil that created the ancient woodland for future generations. Of course it’s not a perfect remedy and we haven’t suggested that it is, but it’s clearly a desirable thing to do, even recognising that there are no guarantees as to the outcome.

397. We’ve also heard – but I’ll just summarise it and Mr Miller can explain it again – that of course (and in response to Mr Clifton-Brown’s observations) the critical thing is to exercise care in that process in the management of the soils to ensure that the process

can be as successful as possible. And that is something that does form part of our approach. Mr Miller has explained it in terms of soil management. It's not one that is actually limited to ancient woodland, of course, because the same approach applies to conserving agricultural soils; but it applies with special force to ancient woodlands. And we have in fact, as I understand it, already discussed a method statement with The Woodland Trust about translocation of soils. So this is all clearly work that can carry on and a dialogue or debate can occur as to how best to do it. But we have already taken forward the idea of a method statement which takes into account representations by those who can offer valuable assistance in comments in taking forward the method statement to achieve the best outcome.

398. So I think I just wanted to explain in terms of the other mitigation effects. The Committee has heard an awful lot about both the selection of features of the route, or indeed haul roads in the construction, which seek to minimise ancient woodland effects. The classic example would be the link road that goes, for AP4, up to the South Heath area. We selected a route in that particular location which avoided the ancient woodland. There are some who wanted us to take a different route. Likewise, in the Harvil Road area, the proposal for a haul road there, we're in discussions about the optimum route where, in fact, the ancient woodland might be a better route than the SSSI that's affected. These are clearly part of the project's ongoing processes but they already feature strongly in our selection of the route and our selection of the haul route.

399. And to give you a flavour of what has been achieved already, it is just worth looking at the table of the impacts that we provided in respect of ancient woodland: P15669(2). We have sought to identify where there's any effect on ancient woodland as well as woodland. And we've identified where there are losses, which then comes up with the total figure you've heard about. I think it's more than 30 hectares but not much more. That figure has varied, of course, as the project has gone on. So, for example, AP4 produced the effects on Mantels Wood in a way the Committee knows about. So there was a gain in that respect. There have been changes throughout the project in terms of designation of ancient woodland, so that sometimes affects the calculation. But, broadly speaking, we're talking of a figure of approximately just above 30 hectares.

400. But if you go down on this slide, slide 3, you can see, just to put that in perspective bearing in mind the size of this project, within a 5 kilometre area around the

route, around the Bill footprint, there is actually a direct impact on only 0.4% of the total ancient woodland in that area. And that, whilst of course I'm not seeking to suggest it's desirable to affect ancient woodland, is an indication of the care that's gone into –

401. MR HENDRICK: Mr Strachan, I don't think anybody's suggesting that you've gone out of your way to go through ancient woodland. I know you've done your best to avoid it. But I think the point being made by the petitioner is that the way in which translocation has taken place, which was described as an engineering operation, has been in some ways quite crude and insensitive. I wasn't quite clear what the petitioner – apart from the fact they wouldn't want you to go through the area – wanted you to do that you haven't done. Can you say in a nutshell what you have done that makes the way that you've done it defensible and justifiable in the circumstances?

402. MR STRACHAN QC (DfT): Well, what we have done is agreed that we would translocate those soils in a careful manner and that we have already discussed the method statement –

403. MR HENDRICK: You said 'a careful manner' but we saw pictures of diggers. Now, how careful is a digger?

404. MR STRACHAN QC (DfT): Well, in the case of soils it may not matter that it's done by a mechanical digger. What is more important, for example, is how you manage the layers of soils, the times you take them and the way you then obviously put them back into the earth. That is best covered by a method statement of the type that we are seeking to develop in consultation with The Woodland Trust. And that was what I was trying to bring out: that we have already started that process. But I think, in fairness, what we haven't heard is anything we're not doing that needs to be done. Parking on one side the desire not to affect ancient woodland at all. But once one recognises that that is necessary, what we're doing is to take forward a best practice approach to maximise the effects of translocation.

405. MR HENDRICK: And what's your position on this ratio of 30:1?

406. MR STRACHAN QC (DfT): We don't accept the replacement ratio.

407. MR HENDRICK: So you've gone with the Defra figure?

408. MR STRACHAN QC (DfT): What we've done is we've identified specific areas where we think ancient woodland translocation could occur. You've heard about replacement planting with other woodlands to create connectivity. Just to give you a flavour, a 30 times replacement for a 30 hectare loss would result in over 900 hectares of new woodland, which would have to be found obviously on other people's land.

409. MR HENDRICK: Okay, but what figure are you going for?

410. MR STRACHAN QC (DfT): We haven't calculated it as a figure.

411. MR HENDRICK: Or are you going 1:1?

412. MR STRACHAN QC (DfT): We don't calculate it in that way. What we have done is, in each area where ancient woodland is affected, identify appropriate mitigation in that area to reflect the losses. In some cases it will be more than 1:1. Probably considerably more in terms of woodland planting to connect up with ancient woodland. In some localised places it may be slightly less. I can't do the exercise. What we have done is identify, in all of our compensation measures, in specific areas where there are effects on ancient woodlands, planting to address the loss. I can give you practical example, or Mr Miller will be able to give you a practical example.

413. MR HENDRICK: Rather than an example, I'm trying to get an understanding of the magnitude of the planting that will be going on in order to mitigate or compensate for what is being lost. Now, you said you're not going for a figure of 30. Presumably, you're disregarding Defra's figure of 24. You know, can you not give any indication such that we can get our head round, rather than an individual example, how much planting will be done?

414. MR STRACHAN QC (DfT): What we can do is identify the amount of total planting that we're proposing.

415. MR HENDRICK: Just for –

416. MR STRACHAN QC (DfT): Well, it's woodland planting. The point the petitioner is making is that you can't plant ancient woodland. And we recognise that.

417. MR HENDRICK: We all accept that.

418. MR STRACHAN QC (DfT): Yeah. So what we're doing –

419. MR HENDRICK: Just for ancient woodland, how much will you be trying to compensate for the loss? He said there's 30 hectares. How many hectares will you be putting in in terms of compensation?

420. MR STRACHAN QC (DfT): Well, for hectares of planting I can give you a figure because –

421. MR HENDRICK: For ancient woodland.

422. MR STRACHAN QC (DfT): Well, we wouldn't be comparing the two because if we lose 30 hectares of ancient woodland – and I think it may be something in the region of 200 hectares of other woodland – if you work out the total amount of planting that we're currently proposing, I understand that the figure... I might get these figures wrong but I'll be corrected. In the region of 600 hectares or more as a total.

423. MR HENDRICK: Yeah.

424. MR STRACHAN QC (DfT): So what we're doing... And I readily accept that for The Woodland Trust they wouldn't accept the planting we're putting in is a replacement for ancient woodland because you can't replace it. But the amount of planting we're providing in terms of total tree planting –

425. MR HENDRICK: We know that and we've heard that figure many times before where it comes to tree cover generally. What we're trying to get at here is what special measures are you taking, other than a degree of translocation, to get the sort of volume of plantations that are needed to compensate just for the ancient woodland, not the general loss?

426. MR STRACHAN QC (DfT): Let me show you P15670(3) because I don't think I can give you a global figure. What we have done is, for each ancient woodland that's affected, we have identified a strategy for what we're doing to deal with the loss. So if you choose any particular woodland, in this document you can see what our strategy is to mitigate that loss. In many cases the overall global figure is more tree planting than we're taking out. In many cases.

427. MR HENDRICK: The question is how much, and if you can't tell me just say you don't know.

428. MR STRACHAN QC (DfT): Well, I do know but you'd have to do it for each one. I'll give you slide 9 as an example.

429. MR HENDRICK: Alright.

430. MR STRACHAN QC (DfT): ... slide 9 as an example

431. MR HENDRICK: Alright

432. MR STRACHAN QC (DfT): So Ranston Covert and Battlesford Wood, there's a description of the ecological quality. Measures taken to reduce loss. Then we have the original scheme. Over the page you can see here, for example, 'As a result of changes in the boundary of Ranston Covert and Battlesford Wood, the area recognised as ancient woodland within the land required for this scheme increased by approximately 0.7 to total 1.7 hectares. Consequently, there was a commitment to additional measures to address the loss of ancient woodland –'

433. MR HENDRICK: That's not even a ratio of 2.

434. MR STRACHAN QC (DfT): But if you carry on below, that's the area of loss. 'Further design development in the land required for construction by approximately 2.6 hectares to reduce the extent of the ancient loss by approximately 1.6 hectares. As such, the scheme results in the removal of approximately 0.1 hectares, and a small 0.2 hectares of unnamed woodland was added to the ancient woodland in an area of approximately 25 metres squared of this ancient woodland to within the CCB.' And then you can see we've reduced it further in AP4. Revised scheme resulting in loss of 0.08 hectares. And then you get to the compensation measures below. 4.1.9, you get additional planting to link Juniper Wood, Little Havens Wood and Great Havens Wood with approximately 17 hectares of new lowland mixed deciduous woodland west of Tower House Lane. So it carries on. What I can't tell you off the top of my head is, for each area of woodland that's affected, precisely –

435. MR HENDRICK: Well, it's clear you're not using it as a strategy. What you're using as a strategy is clearly to try and bolt it onto existing woodland.

436. MR STRACHAN QC (DfT): Correct. It's additional planting connected to existing woodland where possible to create overall a habitat which won't replace ancient woodland but will be a well-mitigated form of woodland. And it carries on over the page. So what I can't do, because time doesn't permit, is go through each example.

437. MR HENDRICK: But it's clear it's nothing like the scale... I know you said you can't give me a figure, but from what you're saying –

438. MR STRACHAN QC (DfT): No, we're not doing 30 –

439. MR HENDRICK: Not even 24. I wouldn't say you're in double figures, from what you said.

440. MR STRACHAN QC (DfT): Well, I haven't got a calculator.

441. CHAIR: Right, thank you.

442. MR CLIFTON-BROWN: Can I ask you something that might be helpful to HS2 and it might be helpful for the country? I was very struck... Is it Mr Barnes?

443. MR BARNES: Yes.

444. MR CLIFTON-BROWN: Or Professor Barnes?

445. MR BARNES: Richard Barnes.

446. MR CLIFTON-BROWN: Richard Barnes' approach to establishing more woodland in the country and doing it by voluntary agreements. And we've had lots of petitioners come before this Committee complaining about land to compensate for land that HS2 is acquiring from them. Does HS2, as a matter of course, adopt Mr Barnes' policy of trying to find landowners that actually would be more than happy to have planting on their land and therefore requiring less compensatory land to be compulsory acquired against the owner's wishes along the line?

447. MR STRACHAN QC (DfT): Can I answer that by showing an assurance we've provided to The Woodland Trust? A2104(33). There are a number of assurances. I was going to show you more of them but you can see here, item 4: 'Provided it doesn't increase project costs, and subject to obtaining the necessary consents and permissions,



the nominated undertaker will consider any reasonable and timely opportunities that arise to undertake enhancements of existing ancient woodland outside the Bill limits as an alternative to providing compensation as authorised by the Bill and consider new opportunities where reasonable practicable to maximise biodiversity gain.’ So that has to be viewed alongside what will be done specifically for particular landowners where there’s the opportunity to discuss compensation measures in one location and potentially transferring them to other locations within their own landownership. Here, this is a more general assurance that we will look to opportunities – particularly ones that are being suggested – which lie outside the Bill limits, where there may be an opportunity to put in measures to achieve the same effects without the land that’s being identified in the Bill.

448. What’s important, however, is that this Bill, as it’s enacted, contains a sufficient mitigation to be a mitigated scheme. We’ve got the fallback but we’re open to these discussions. So your suggestion is a constructive one but it is one that we are reflecting.

449. MR CLIFTON-BROWN: So, to try to be more constructive, have you said to some of the petitioners who have come before us and been objecting to the amount of compensatory land that’s been taken ‘you go away and find land elsewhere where we might plant woodland and we’ll take less of your land as a result’?

450. MR STRACHAN QC (DfT): Well, I think what we have said – and you’ve seen this in action in some cases – is where, for example, we’ve acquired farms through compulsory purchase we have actually considered translocation of mitigation where it’s possible onto those farms. I think there was an earlier example before. Burton Green and the Clayton Estate – I think those discussions have already taken place and are probably ongoing. And we have also, of course, in some cases, identified where the loss is localised and there’s a local impact that needs to be addressed in that location where it’s not possible to look at another site. That’s less applicable, perhaps, to ancient woodland and more applicable, for example, to protected species and concentrated habitats.

451. But I’m slightly straying away from The Woodland Trust concern. But the short answer to your question is: yes, we have. There’s no doubt more discussion that will continue. So I hope that those two responses addresses your question.

452. I think those are the key points. There are a number of other assurances. While I've got this on the page, it's the monitoring position. We have already identified that the Ecological Review Group will provide independent advice on the ecological mitigation measures, including monitoring. And so the point that Mr Hendrick was raising about who's best placed to do that, that will emerge through the Ecological Review Group.

453. CHAIR: And the formation of the Ecological Review Group?

454. MR STRACHAN QC (DfT): Yeah, we've provided an assurance on that. At Royal Assent.

455. MR HENDRICK: Will it be operating in 50 / 60 years? Mr Barnes was saying that this stuff needs to be looked at.

456. MR STRACHAN QC (DfT): The monitoring of woodlands which we put in, I think the period is for up to 50 years that we've identified.

457. MR HENDRICK: 50 years?

458. MR STRACHAN QC (DfT): Up to 50 years.

459. MR CLIFTON-BROWN: I think that's really important in view of the evidence that Mr Barnes may not be aware of, but the shocking evidence about HS1 really of 30% of the new plantings failing. I think much more attention needs to be paid –

460. CHAIR: Can I just... before that runs away, that was one person giving a view which I don't think has been substantiated or not substantiated. I would be quite interested to see whether HS2 could find out what the situation is in terms of woodlands on HS1.

461. MR CLIFTON-BROWN: But if it's true, Chairman, I do think much more attention needs to be paid to this ongoing monitoring.

462. MR STRACHAN QC (DfT): I will find out more about it but I just want to be clear that the evidence that was given, which was given by the petitioner, as I recall it was evidence that of the initial planting that went in 30% had to be replanted. So it's not a 30% loss. At the point you made is a perfectly valid one of trying to limit the

expenditure of having to replant trees. But if there is a loss of that kind, then of course it results in replanting to ensure that the overall effects are still mitigated.

463. MR CLIFTON-BROWN: But just to put on record again the seriousness of that, if it's true. HS1, as we were told, planted 2 million trees. A loss of 30% is round about 600,000 trees. That is a huge resource that should be –

464. MR STRACHAN QC (DfT): Well, I think the figure needs to be checked.

465. MR CLIFTON-BROWN: Yes, but if it's true –

466. CHAIR: Let's have the figure checked, Mr Clifton-Brown. Right. Brief final comments?

467. MR TAYLOR QC: Thank you. The simple fact here is that, notwithstanding my learned friend's pointing to the balanced judgement that needs to be struck, the balance of judgement was not struck on the basis of full information before the route was selected. HS2 failed to identify, despite being asked by Natural England to do the work, 14 ancient woodlands. The route was then selected. Then the Trust did the work and identified those 14 that were then put on the ancient woodland inventory. As a result, when the balance was struck identifying the route, the loss and the benefit, the loss was undervalued because it omitted those 14 woodlands. And that is important because that does not reflect best practice. And the Trust is asking you as a committee to state in terms that best practice was not followed.

468. Having said that, in relation to the other matters that the Trust wishes the Committee to consider, in relation to translocation I believe my learned friend has acknowledged that translocation cannot mitigate or compensate for the loss of ancient woodland.

469. In terms of other matters that are sought, the key aspects are the Trust's ongoing involvement in the translocation process. At the moment there is no document which sets out any commitment that The Woodland Trust would be involved on an ongoing process into the future, notwithstanding its obvious knowledge and evidence in this field.

470. In addition, my learned friend hasn't touched on the point that Mr Barnes raised

about the need for the translocation programme to dictate the engineering programme and not the other way round, despite examples that can be pointed to the other way. We would ask that the Committee make a statement in relation to that.

471. In relation to the issue of the extent of compensatory planting, the Trust has been concerned for a number of years about the approach that HS2 has been taking to compensatory planting. If we can turn please to A2109(2). Have I got the wrong note? Sorry, A2104. Sorry. Wrong reference. Can't read my own writing, as usual. Yes, it's A2104(21). At paragraph 87 – this is the proof that Mr Barnes has submitted to the Committee – he explained that, 'HS2 Limited has never published a comprehensive set of figures showing how much planting is proposed for each woodland lost despite repeated requests from the Trust. Therefore it's impossible to be certain what the ratio of planting is proposed. However, as previously stated, we have estimated it to be around 3.4:1. Natural England also considered that the planting ratio was between 3.1:1 and 4:1 and told HS2 that that was unacceptable.' So that's the evidence that we have. The Trust has been asking for over 18 months for a schedule on a wood by wood basis of what the loss is and what the proposed compensation planting is for that loss, and has not been provided with that table.

472. MR HENDRICK: Can I ask, Mr Strachan, the figures you showed me and the plans for each of those woods, when was that published?

473. MR STRACHAN QC (DfT): It's dated...

474. MR HENDRICK: And was it made available to The Woodland Trust?

475. MR STRACHAN QC (DfT): Well, they've got it. I think it was published this year. Beginning of this year. January.

476. MR HENDRICK: Can I ask the Trust then: are you satisfied that... I mean, clearly they're not using a ratio; that's been said. But are you satisfied that that's the information that you were after?

477. MR BARNES: Not completely. We got this, I believe, on 11 January, a Monday, and we haven't had the time to go through it thoroughly. But that's the ancient woodland strategy and we're told it's not been published, but we're seeing it. So the

first time we've seen it published was in this document sent to us on Friday in terms of being able to comment fully on it. We were given it as an 'early sight' I think was the description after I was asking 'could it be on a website?' so I could send it round to people. I was told 'no, please don't; there is no website available for it to be on'. Having said that, we've gone through and the table of impact –

478. CHAIR: Let's get back to... We were trying to get back to brief final comments rather than re-open the argument again.

479. MR BARNES: I'm sorry.

480. CHAIR: You made your point anyway. You ought to be a professor.

481. MR HENDRICK: But it was one of the comments.

482. CHAIR: Yeah.

483. MR TAYLOR QC: The central point is that the information to enable an understanding of the rationale behind the compensatory planting for the loss that the project brings has never been articulated. And it would appear, even from the commitment that we've achieved which my learned friend took us to in relation to looking at other ways of providing the planting, there is no commitment to increase the amount of planting. If you read the wording very carefully of that assurance, what it is is a commitment that if one hectare effectively is taken away from planting within the Bill limits it'll be replaced with one hectare outside the Bill limit. But there's no commitment to increase the amount of planting beyond that which is already within the project. And in particular there's the limitation about not increasing cost.

484. So that commitment does not meet the Trust's concerns, which is one of the reasons why we're here today. We say that this project has not been brought forward on a basis which has even looked at compensation in the right sort of way, simply because 14 additional ancient woodlands were identified. We've not been provided with any indication as to how the project has changed to increase the compensatory planting as a result of that.

485. So it becomes pretty clear, in my submission, that the approach that the project has taken to the loss of ancient woodland is one where they have sought to provide

compensation within the Bill limits; but the scheme itself was not designed incorporating that compensatory planting in mind.

486. In relation to other matters, I think you've got the assurances that we're seeking in the presentation so I won't trespass upon your time any further.

487. CHAIR: Okay, thank you very much to you both. It's been an interesting discussion. Order, order. We're going to come back at 2 o'clock.