

## **HS2 Phase One: London-West Midlands Environmental Statement (ES)**

### **Response to consultation by groups representing the communities of Offchurch, Cubbington and Weston-under-Wetherley, Warwickshire (Community Forum Area 17)**

This submission to the consultation on the HS2 Phase One Environmental Statement (“the Consultation”) is made jointly by the following organisations (listed in alphabetical order):

Cubbington Action Group against HS2

Cubbington Parish Council

Eathorpe, Hunningham, Offchurch and Wappenbury Joint Parish Council

Offchurch HS2 Action Group

Weston-under-Wetherley Parish Council

For the purposes of this submission these groups, responding jointly, are referred to as “the Community”.

The Community does not require this submission to be treated as confidential, and agrees to its publication by the Department for Transport or HS2 Ltd or other disclosure of its contents.

The submission is made, on behalf of the above-named organisations, by:

Robert Inman

Clerk to Cubbington Parish Council

Corniche

Welsh Road

Offchurch

Leamington Spa

CV33 9AH

[clerk@cubbington.org.uk](mailto:clerk@cubbington.org.uk)

25<sup>th</sup> February 2014

#### **Executive summary**

This submission sets out the Community’s comments on the Environmental Statement.

Throughout the entire consultation process, it has been clear that the timescale for conducting all the work necessary for HS2 Ltd to arrive at an optimised design has been insufficient. Accordingly environmental and community concerns have not received the full and sympathetic consideration that should be expected from such an optimised design for a world-class rail project. In addition, it has long been apparent that government cost constraints have consistently prevented a serious engagement by HS2 Ltd with community concerns. Therefore, given the programme constraints under which HS2 Ltd have had to operate, the consultation process has proved most unsatisfactory.

Not only have the consultation processes been unsatisfactory, but both the Draft Environmental Statement and the current Environmental Statement exhibit serious deficiencies.

Throughout this entire consultation process we have sought to protect our local communities and the environment, and have made substantive and detailed mitigation proposals. HS2 Ltd accepts that its design will have very significant effects on our environment, which would be considerably reduced if our mitigation proposals were incorporated. These have however been rejected by HS2 Ltd purely on the grounds of cost. While some outline costings have been very belatedly supplied by HS2 Ltd, these lack the substance that we would expect as the basis for important decisions and there has been no opportunity for the Community to discuss or challenge them.

To arrive at this point almost 4 years after the initial announcement of HS2 is simply unacceptable to the Community.

We therefore still have major issues of concern. These include both the deficiencies of the Environmental Statement and its failure to offer an acceptable level of mitigation to our communities. Three critical issues are:

- **Track bed height**  
In discussions with HS2 Ltd the action groups have stressed the importance of keeping the track as low as possible and making reducing the trackbed height wherever possible a design priority. This would mean that the visual and noise impacts would be substantially reduced, as cuttings will be deeper and embankments and viaducts lower. HS2 Ltd acknowledges in the Environmental Specification that “keeping the proposed alignment as low in the ground as possible” reduces the overall noise impact. Unfortunately HS2 Ltd has responded to the action groups’ request by doing exactly the opposite.
- **Offchurch Cut and Cover Tunnel**  
This proposal would have numerous benefits in terms of reduction of noise and visual impact; enabling the reinstatement of Long Itchington Road and other roads and rights of way without the need for bridges; retention of the integrity of agricultural holdings; maintenance of Offchurch Greenway and associated wildlife corridor; and reduction in the amount of spoil requiring disposal.
- **South Cubbington Wood (ancient woodland)**  
This proposal would reduce the height of the track across the Leam Valley to the minimum and to excavate a twin-bore tunnel through the hill on which South Cubbington Wood stands. This would avoid the need for surface excavation in South Cubbington Wood and thus save the ancient woodland from extensive damage; reduce visual and noise impact, especially in the Leam Valley; and avoid the need to divert the B4453 Rugby Road over a new road bridge.

In addition, the Community has serious concerns about:

- Public rights of way
- Construction issues and the Code of Construction Practice
- Agriculture
- Community and residential properties
- Socio-economic aspects
- Visual and noise mitigation

- Surface water flooding
- The environmental baseline

All these issues are substantiated in this submission.

### **Response to previous consultation (draft Environmental Statement)**

The Community took the opportunity to respond to the consultation on the draft Environmental Statement that ran from 16<sup>th</sup> May to 11<sup>th</sup> July 2013<sup>1</sup> (“the Previous Submission”). This was a comprehensive document, running to nearly fifty pages, containing a section by section response to Volume 1 and Volume 2, Part 17 of the draft Environmental Statement and the draft Code of Construction Practice. In addition, the Previous Submission made some comments addressed at Volume 2, Part 18 and the Non-Technical Summary of the draft Environmental Statement.

The Previous Submission is acknowledged as having been received and analysed by Dialogue by Design in Appendix 1 of the report that summarises the responses to that consultation<sup>2</sup> (“the Dialogue by Design Report”). However, despite the Previous Submission being made jointly by five bodies, only Cubbington Parish Council is identified in the *List of participating organisations*.

The Community is satisfied that section 6.17 of the Dialogue by Design Report provides a conscientious attempt at summarising the issues within Community Forum Area 17 and encompasses a number of the key points raised by the Previous Submission, illustrated in some cases by extracts from the latter document. However, this is only a summary and the Community would have expected that, bearing in mind the status in our area of the bodies responsible for the Previous Submission, those involved in producing the final version of the HS2 Phase One Environmental Statement (“the ES”) would have benefitted from direct access to the Previous Submission, in addition to relying on the Dialogue by Design Report.

The equivalent section in ES Volume 5, Technical Appendix CT-008-000 (*Draft Environmental Statement Consultation Summary Report*) to section 6.17 of the Dialogue by Design Report is section 7.5, on pages 53 to 57. Elsewhere in this document (in paragraph 8.1.1), we are assured that:

“A great deal of consideration has been given to the comments received and to how these could be addressed; whether through the ES, the draft CoCP or through design development.”

Unfortunately, the evidence of the contents of Technical Appendix CT-008-000 is that, far from addressing all of the key points raised in the Previous Submission, the former report falls short even of responding to all of the issues in our area that were identified in the Dialogue by Design Report. Examples of issues that fall into this category are:

- The amenity value to the local community of South Cubbington Wood.

---

<sup>1</sup> *HS2 Phase One: London-West Midlands Draft Environmental Statement (DES), Response to consultation by groups representing the communities of Offchurch and Cubbington, Warwickshire (Community Forum Area 17), Cubbington Parish Council and others, 9<sup>th</sup> July 2013* ([http://www.hs2-cubbington.net/wp-content/uploads/2014/01/DES\\_consultation\\_submission\\_final\\_corrected.pdf](http://www.hs2-cubbington.net/wp-content/uploads/2014/01/DES_consultation_submission_final_corrected.pdf)).

<sup>2</sup> *HS2: Draft Environmental Statement for London – West Midlands: A Summary of Consultation Responses*, Dialogue by Design (for HS2 Ltd), September 2013 ([https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/259306/hs2-draft-es-consultation-response.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/259306/hs2-draft-es-consultation-response.pdf)).

- The increased value that the restoration of North Cubbington Wood offers over new planting.
- The vulnerability of the Old Cubbington Mill Care Home.
- The proposals to divert footpaths W129y and W128.
- The community impact of the proposed construction traffic routes through both Cubbington and Offchurch.
- The visual impact of the proposed screening earthworks.
- The susceptibility of parts of Cubbington to surface water flooding.
- The cursory and unsatisfactory treatment of local economic impacts.
- The disappointment felt by the local community with the engagement process.

In Technical Appendix CT-008-000, in paragraph 4.1.4, we are also assured that:

“Comments raised were considered by the technical environmental topic authors responsible for writing the relevant section of the draft ES and recommendations were made to HS2 Ltd on how these comments should be addressed.”

And paragraph 8.1 claims that:

“... the consultation process provided a robust analysis of the content of the draft ES and draft CoCP and helped to confirm findings and identify areas which required further justification or information. Responses received have influenced the drafting of the ES and led in part to changes to the ES and to the design of the Proposed Scheme. The ES now reflects the results of the analysis of consultation responses.”

Whilst there is evidence in Technical Appendix CT-008-000 that some changes have been made in response to comments received from the consultation, the overwhelming impression that comes from reading this document is of HS2 Ltd justifying the approach that they have taken, rather than modifying it.

Further evidence that scant regard has been paid to the contents of the Previous Submission in preparing the ES comes from two particular paragraphs in ES Volume 2, Report CFA17.

The first of these, paragraph 2.1.10, is an expanded version of the paragraph bearing the same number in the draft Environmental Statement. Paragraph 4 of section 2.1 on page 2 of the Previous Submission identified some errors of fact in the text of the draft ES text – for example, it was pointed out that Cubbington has two primary schools, not one – but the version of the paragraph in the final ES repeats all of these errors.

The second example is paragraph 2.5.2, where there is a reference in the draft Environmental Statement to a community forum meeting being held on 21<sup>st</sup> June 2012 at “the Community Pavilion”; to be consistent with other entries in the paragraph the reference should have been to “the Community Pavilion, Cubbington”. The Previous Submission pointed this omission out (in paragraph 1 of section 2.5 on page 8), but the version of the paragraph in the final ES refers to “the Community Pavilion, Offchurch”.

In view of the above comments the Community has serious doubts about whether the considerable effort that was expended in preparing the Previous Submission

represented a worthwhile utilisation of the limited resources that are available to the Community to undertake such tasks, and this view has influenced our approach to the present consultation.

### **The approach that has been taken to preparing this submission**

This submission responds primarily to Question 3 of the Consultation, with some further comments on Question 6. We have thus concentrated on the issues that the Community has with the impacts that the construction and operation of HS2 would have on our locality – many of which remain unchanged, and unaddressed, from the Previous Submission.

As noted above, our experience of the draft ES consultation counsels us that, even if the Community had been able to resource the person-hours required for a comprehensive response, we would reap scant reward for our efforts.

Accordingly, our failure to comment on any of the content of the ES should not be construed as agreement with that content. Moreover, where we have not repeated here points which we made in the Previous Submission and which have still not been addressed in the ES, we regard our previous comments as still valid.

### **Question 3: Please let us know your comments on Volume 2: Community Forum Area reports.**

The Community wishes to make the following comments on Report CFA17 Offchurch and Cubbington; these comments have been grouped under the specific issues that the Community has with the HS2 proposal, rather than being listed in the order in which they appear in Report CFA17.

#### **Issue 1 – Trackbed height**

1.1 The proposed route of HS2 crossing CFA17 takes it through an area that, according to paragraph 2.1.3 of Report CFA17 is “predominantly rural in character, interspersed with small villages and a scattering of isolated dwellings and farmsteads”. The terrain is gently undulating, overlooked by higher ground. The landscape is dominated by the valley of the River Leam, which paragraph 2.1.4 of Report CFA17 describes as flowing “on a meandering course that has created a broad valley through the centre of the area”. The valley has, until now, been largely spared from the intrusions of modern life, such as electricity supply lines and major transport infrastructure, and affords pleasing vistas from the higher ground at the valley sides.

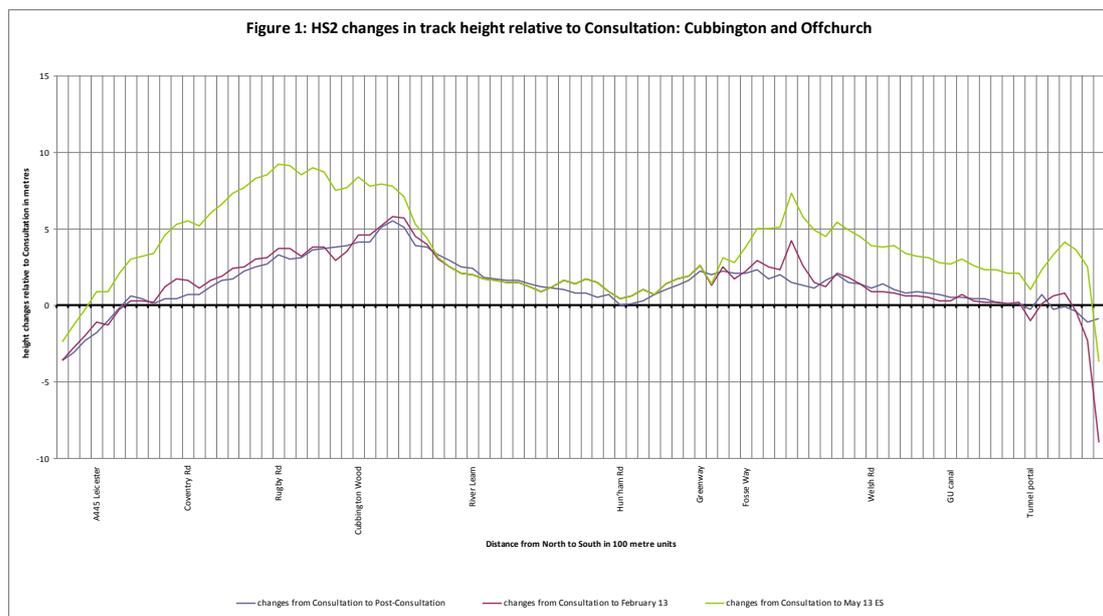
#### **Environmental sensitivity of trackbed height**

- 1.2 The Community regards the countryside in its locality as sensitive to man-made intrusions and particularly vulnerable to the impacts that such intrusions may bring. We do not feel that section 9 of Report CFA17 (*Landscape, and visual assessment*) pays sufficient regard to this sensitivity and, accordingly, believe that it understates the impacts that HS2 would have.
- 1.3 The representatives of the Community that have attended community forum and bilateral meetings have continually stressed to HS2 Ltd the importance of keeping the trackbed height as low as possible through this countryside in order to minimise the visual and noise impacts, this being particularly important in the sections where HS2 would be above grade or in shallow

cutting, such as the stretch north of the Long Itchington Wood bored tunnel and the crossing of the Leam valley. It appears that, at least as far as noise issues are concerned, HS2 Ltd appreciates the advantages of such a policy; paragraph 9.12.1 of Volume 1 of the ES claims that reductions in overall noise impact have been achieved by “keeping the proposed alignment as low in the ground as possible”.

## HS2 Ltd policy of increasing trackbed height

- 1.4 However, far from heeding calls to reduce trackbed height in sensitive sections of the proposed HS2 route through Offchurch and Cubbington, HS2 Ltd has pursued a policy of progressively increasing the trackbed height since the 2011 consultation. The trackbed height changes that have been made are illustrated in figure 1<sup>3</sup>.



- 1.5 The trackbed height increase in the area around the crossing of the Grand Union Canal is acknowledged in paragraph 2.6.4 of Report CFA17, where we are told that “the embankment between Long Itchington Wood tunnel and Offchurch cutting is raised by up to 3 metres”.
- 1.6 Similarly, the increase north of the Leam valley is acknowledged in paragraph 2.6.8 of ES Volume 2 Report CFA17 which confirms that the depth of the Cubbington retained cutting has been raised by “approximately 6m leaving an average cutting depth of approximately 9m”. Had the report considered the situation just north of the B4453 Rugby Road crossing, it would have recorded that the increase there is approximately nine metres – at this section of the route the OLE is no longer below ground level.
- 1.7 Whilst the trackbed height increase that has been made for the Leam valley stretch of line is less, at up to approximately two metres, this is still very undesirable as the greater visual impact in this sensitive landscape will be considerable. Further, the Community is of the opinion that there was scope to reduce, rather than increase, the trackbed height in the valley. The proposed viaduct over the River Leam, in particular, appears at eleven metres to be

<sup>3</sup> Figure 1 Does not include data from the ES, because a major omission from the ES is that there is no systematic data showing trackbed height

excessively high; HS2 Ltd confirmed at one of the bilateral meetings that the height needed to satisfy flood requirements is around six metres.

- 1.8 The Community is in no doubt that the main motivation behind this general increase in trackbed height throughout CFA17 has been cost savings, including reducing the costs of spoil disposal, rather than any notion of community benefit. This is acknowledged in paragraph 2.6.5 of Report CFA17, which claims that the higher trackbed height design north of the Long Itchington Wood tunnel has “a lower capital cost” as well as “lower operational cost”. Paragraph 2.6.9 of the same report claims “a lower capital cost” for the modified design north of the Leam valley.

### **Impacts of increasing trackbed height**

- 1.9 The Community does not accept the further claim made in paragraph 2.6.5 and paragraph 2.6.9 of ES Volume 2 Report CFA17 that the revised design “maintains a broadly similar overall environmental impact during operation as the January 2012 announced route”. Report CFA17 offers no real justification to support this assertion, and the Community cannot accept that a significant increase in height of the embankment between the tunnel and the Offchurch cutting together with the need to raise three country roads from ground level by, in the worse case, eight metres will have no appreciable visual impact.
- 1.10 As for the impact that the revised design may have on operational noise impacts, the Community concurs with the above-cited view expressed in paragraph 9.12.1 of Volume 1 of the ES that “keeping the proposed alignment as low in the ground as possible” allows reductions in overall noise impact to be achieved. The corollary of this is that increasing the trackbed height must have a detrimental effect on noise impact.
- 1.11 Map SV-05-044b in Volume 2 Map Book CFA17 shows that there is a significant bulge of noise footprint resulting from the Offchurch embankment section. Map SV-05-045 in the same volume shows a broadly similar spread of noise from the track section that crosses the Leam valley, causing adverse affects on some outlying dwellings in Offchurch and Cubbington and approaching perilously close to the main body of the village of Offchurch. The accompanying Map SV-05-046 shows that noise spill from the cutting sections north of the Leam valley is also not insignificant; again some outlying dwellings are affected and the noise envelope comes close to the outskirts of the village of Cubbington.
- 1.12 Of course, the noise does not conveniently stop at the limit of the shaded area on these maps; this shading merely illustrates where the noise will be above the threshold level set by HS2 Ltd.
- 1.13 There is nothing in the ES to justify the claim that the patterns would have been “broadly similar” without the trackbed height changes. If HS2 Ltd wishes to make such a claim, then surely this should be supported with sufficient evidence. In the case of noise impacts, then suitable evidence might be “before” and “after” noise plots.

### **A flaw in the consultation process**

- 1.14 The Community feels that it has been the victim of some “sleight of hand” regarding the significant vertical alignment design changes that have taken

place subsequent to the 2011 public consultation and the resulting January 2012 ministerial announcement. The Community view is that it was consulted on one route and has now been presented with quite a different animal; we feel that the goalposts have been moved so far from the design that was consulted upon to make that consultation null and void.

- 1.15 In other areas where significant changes have been made to the route alignment these were subjected to a “design refinement consultation”<sup>4</sup> that ran alongside the consultation on the draft ES. Presumably the decision was taken that the design changes made in the Offchurch and Cubbington area were too “insignificant” for inclusion in this re-consultation. The Community feels strongly that the decision to omit our area, whatever the grounds, was mistaken and that, as a result, the consultation process in our area was flawed.

### **Issue 2 – Offchurch cut and cover tunnel**

- 2.1 A proposal<sup>5</sup> was submitted to the Offchurch and Cubbington Community Forum by the Offchurch HS2 Action Group in early May 2012. This proposal, which is referred to in paragraph 2.6.11 of ES Volume 2 Report CFA17, is to convert as much as possible of the open cutting between the Hunningham Road and the Welsh Road (roughly, chain 130+6 to chain 132+4) to cut and cover tunnel. It is recognised that the extent of such a tunnel could vary depending on balance of benefits and costs, and the track height. Track height, as discussed under issue 1 above, is thus closely linked to this proposal.

### **Benefits of a cut and cover tunnel**

- 2.2 The benefits of the proposed cut and cover tunnel can be listed under the headings of:
- Noise
  - Economic and social
  - Environment and amenity
  - Communications
  - Land take and spoil

### **Noise**

- 2.3 Cut and cover tunnelling would eliminate much or all of the noise impact from HS2, and could reduce the costs of additional noise barriers and other mitigation measures.
- 2.4 This will benefit local residents, especially those in the 19 houses within 400 metres of the track centreline; local businesses including farm businesses; leisure users of the Greenway and footpaths.

### **Economic and social**

- 2.5 A cut and cover tunnel would have important economic benefits compared to a cutting:

---

<sup>4</sup> *HS2 London-West Midlands Design Refinement Consultation*, Department for Transport, May 2013 (<http://assets.hs2.org.uk/sites/default/files/inserts/Design%20Refinement%20Consultation%20-%20Complete.pdf>).

<sup>5</sup> *Mitigating the impacts of HS2 on Offchurch Parish*, Offchurch HS2 Action Group, May 2012 (<http://hs2andtheenvironment.files.wordpress.com/2013/07/occf003-offchurch-cut-and-cover-tunnel.doc>).

- Retaining the integrity of productive agricultural units;
  - Reducing the impact on nearby businesses;
  - Reducing the loss in value of nearby properties.
- 2.6 These benefits are especially important as HS2 will bring no economic benefits whatever to Offchurch and indeed is likely to result in economic disbenefits such as reduced trade for local businesses (eg the public house) for which the tranquil rural location is important.
- 2.7 In addition, there would be significant social and health benefits to the local community in terms of reduced noise and visual impact and restoration of the landscape and environment. These would help to offset the social impact of construction.

### **Environment and amenity**

- 2.8 A cut-and-cover tunnel would have major environmental benefits. These consist of:
- Maintenance of the integrity of the wildlife corridor on either side of the Offchurch Greenway, whereas the current open cut would bifurcate this important, long distance wildlife corridor. A tunnel would be far more effective in this respect than a “green bridge”.
  - Possibly allowing the reinstatement of Burnt Heath reservoir, which functions as a wildlife, a farming (water resource) and a business resource (bird rearing/shooting business).
  - Retaining the use of Offchurch Greenway/Sustrans cycleway for recreation, which would be compromised by the noise and visual impact of an open cutting and by the current proposals for re-routeing the Sustrans route.
  - Visual impact. A cut and cover tunnel would reduce the visual impact of HS2 across a major portion of Offchurch parish, benefitting both local residents and visitors, such as those using the historic Fosse Way.

### **Communications**

- 2.9 The cut and cover tunnel would enable a significant number of the current routes to be reinstated post-construction without the need for separate bridges. The bridges in question consist of:
- Road bridges: Long Itchington Road (reversing the proposed permanent closure); Fosse Way bridge.
  - One 100m footpath bridge [edge of field to north of Greenway]; One 75m footpath bridge [Valley Fields to Fosse Farm]; one 100m cycle and pedestrian bridge [Greenway]; one 150m cycle bridge [Sustrans National Route 41].
  - One 100m access road bridge from Fosse Way for maintenance of the Greenway.
- 2.10 Without the cut and cover tunnel, even if footpaths and the Green way bridged HS2, usage would undoubtedly fall as the noise and visual intrusion of HS2 would greatly reduce their attractiveness.

## Land take and spoil

- 2.11 Some of the benefits of a cut and cover tunnel compared to a cutting are associated with a reduction of local land-take. A cut-and-cover tunnel would very substantially reduce the permanent land take in Offchurch parish.

## Appraisal of benefits and costs

- 2.12 HS2 Ltd's Route Development Appraisal for the CFA 17 area ("the RDA")<sup>6</sup> is highly misleading in that it largely fails to identify these benefits, because the appraisal lumps together community proposals for lowering the track with the Green Tunnel proposal, and in fact the appraisal comments largely on the impact of lowering the track. The Community requires that separate appraisals of these two proposals are supplied by HS2 Ltd as a matter of urgency.
- 2.13 It was agreed by the Community Forum that mitigation proposals by the community should be considered first for their technical viability before consideration of cost issues. In fact, no adequate costing for the cut and cover tunnel has yet been provided by HS2 Ltd. The RDA provides only a global estimate of capital costs and again the figure quoted (£180m) is an aggregated figure for both the cut and cover tunnel and lowering the track. Moreover no disaggregation of the overall estimate is provided. The Community requires that separate and disaggregated costings are provided, in order to be able to undertake an independent assessment of HS2 Ltd's costings<sup>7</sup>.
- 2.14 In the absence of any such disaggregation, it is not clear that HS2 Ltd has taken account of cost savings resulting from a cut and cover tunnel compared to an open cutting, such as the savings from not having to provide freestanding bridges. Neither does any estimate appear to have been made of indirect economic benefits (for example to farm businesses and deducing losses to property values).
- 2.15 The Community regards the sift process that has been employed to evaluate mitigation proposals made by the local community as not fit for purpose for the following reasons:
- The procedures that have been adopted to construct the RDA are unexplained and remain obscure.
  - The process appears to rely heavily on subjective assessment, particularly in the way that an overall rating has been derived from the individual topic assessments.
  - The two-stage process that requires all environmental headings to be combined before being assessed against all other criteria gives insufficient weight to the environmental benefits of the proposals. The methodology that has been employed to allow this combination is unclear and unexplained.
  - The notional costs of environmental impacts do not appear to have been assessed, to allow offsetting against additional construction costs.

---

<sup>6</sup> *Appendix B: Route Development Appraisal, CFA17 Offchurch and Cubbington Community Forum Alternative proposals appraisal*, HS2 Ltd. Supplied to Jeremy Wright MP December 2013.

<sup>7</sup> Very late in the day (on 31<sup>st</sup> January 2014) HS2 Ltd provided further costing information. This still however fails to enable us to either adequately assess HS2 Ltd's calculations, or to make our own comparative assessment of costs.

- The assigning of a single plus mark to alternatives that offer a “minor improvement on the Comparator Scheme” appears inconsistent with the double minus mark applied to alternatives that involve a “minor worsening on the Comparator Scheme”.
- 2.16 Finally, although the community proposal was submitted to HS2 Ltd (via the Community Forum) in May 2012, no substantive response was made until the provision of the RDA to our MP in December 2013, despite several commitments by HS2 Ltd to do so at much earlier dates. As no further Community Forum meetings are to be held, this means that community interests have had no opportunity to consider and respond to HS2 Ltd’s appraisal. It is particularly regrettable that this appraisal data does not form part of the ES documentation, which instead dismisses community proposals extremely cursorily (in paragraph 2.6.12 of Report CFA17). Thus, to conclude, HS2 Ltd appears to have sought to avoid serious and transparent discussion of this proposal.

### **Issue 3 – South Cubbington Wood**

#### **Amenity value to the community**

- 3.1 Paragraph 8.3.3 of Volume 1 of the ES sets out the policy for the identification of community facilities for the purposes of the community assessment as follows:
- “Where open space is privately owned and not available for use by the general public, it has been excluded from the assessment (e.g. woodlands on farmland). However, where land is privately owned but open for public use (e.g. parks or gardens surrounding country houses) it has been included in the assessment.”
- 3.2 South Cubbington Wood and the farmland surrounding it are privately owned, but ease of access to the area is afforded by two footpaths (W129d and W130) and W130 (Shakespeare’s Avon Way) runs through South Cubbington Wood, providing statutory right of access to a part of the woodland. However, there are no “Keep Out” signs in the part of South Cubbington Wood that stands to be damaged by HS2. The owner is tolerant of free access by members of the local community, as witnessed by the “unofficial” footpaths that wind through the southern part of the woodland. Many senior citizens of Cubbington and Weston-under-Wetherley played in this woodland as children, as do today’s youngsters, and adults have exercised their dogs in the woodland and farmland or just enjoyed the peace, inspiration and contemplation that exposure to the countryside brings.
- 3.3 Every spring, winter blues are dispelled by the sight of the spring flower display in the woodlands and the blossom on the veteran wild pear tree.
- 3.4 Paragraph 2.1.15 of Report CFA17 appears to acknowledge the role that this area of countryside plays:
- “Shakespeare’s Avon Way and the Millennium Way follow roads and footpaths through Cubbington and South Cubbington Wood that are popular local walking routes as well as forming part of long distance trails.”
- 3.5 In paragraph 6.4.10 of Report CFA17 the permanent effects from construction of HS2 on South Cubbington Wood are assessed as “a high adverse impact and

a major adverse effect". Paragraph 6.5.7 of the same report makes a similar judgement for the effects of the "combined presence and operation" of HS2 and assesses that "train noise ... will affect the quiet rural character of the woodland". The Community agrees, and fears that the nature of the woodland and its environs will be changed so significantly as to nullify its amenity value. The loss of the vintage wild pear tree, as revealed by paragraph 7.4.38 of Report CFA17, will also be sorely felt by many – this tree has great symbolic significance to our community, having been a feature of the local countryside during the life span of all of our current residents.

- 3.6 The Community was surprised therefore to find that South Cubbington Wood is not marked on map CM-01-107 in ES Volume 5 Map Book *Community* as a "significantly affected community resource" – we feel that this must be an error.

### **Ecological value**

- 3.7 But of course, South Cubbington Wood is much more than a local amenity. It is a designated Local Wildlife Site (LWS) and is acknowledged to be "ancient semi-natural woodland" in paragraph 7.3.4 of Report CFA17, which also rates the site as "an excellent example of traditional Warwickshire woodland" and informs us that the southern part of the wood "supports ash woodland of a type that is locally rare in Warwickshire". Paragraph 7.3.7 of the same report provides a summary of the ecology of South Cubbington Wood and notes that "the wood anemone sub-community of the W8 woodland is locally rare in Warwickshire".
- 3.8 Table 9 on pages 86 to 91 of Report CFA17 informs us that South Cubbington Wood supports white admiral butterflies, described therein as "a species of principle importance that is mentioned in the LWS citation", and "the nationally scarce brown ant". The table also notes that there is a "great crested newt metapopulation" in the area. The table also ventures that the woods "could support maternity roosts of both common and 'rarer' species" of bats, with a possible example of the latter being Leisler's bat.
- 3.9 Although not noted in the ES, probably because as it admitted in paragraph 7.2.3 of Report CFA17 survey access was not obtained to "the majority of South Cubbington Wood", the woodland also supports examples of two ancient woodland indicator species: wild service tree and small-leaved lime.

### **Impacts of HS2**

- 3.10 Paragraph 7.4.3 of Report CFA17 advises that "the land required for the construction" of HS2 "will cause the loss of approximately 2ha of ancient woodland", which represents "approximately 13% of the 15.0ha LWS. This is deemed to result in "a permanent adverse effect on the integrity of the LWS" in the same paragraph. This calculated area appears to relate to the strip of approximate dimensions 50 metres by 400 metres shown on map CT-06-091 in ES Volume 2 Map Book CFA17. This relates to the land take of the cutting as it will be constructed, including vegetation management zones. However, map CT-05-091 in the same map book shows a strip of land approximately 100 metres wide being required for the construction activities, indicating that approximately 4ha of land will be required. The Community regards the whole

of this larger area as at risk from construction activities and, accordingly, that 4ha probably represents a more appropriate assessment of the extent of the loss of ancient woodland.

- 3.11 Paragraph 7.4.3 of Report CFA17 also signals that the damage to South Cubbington Wood cannot be measured by land area alone:

“The south-west end of the woodland will be severed from the main woodland. The remaining woodland on either side of the route of the Proposed Scheme will be smaller in size and more vulnerable to degradation through edge effects, such as encroachment of scrub and wind throw during storms.”

### **An “irreplaceable resource” and planning policy**

- 3.12 Paragraph 7.3.5 of Report CFA17 characterises ancient woodland as representing “an irreplaceable resource”; the Community concurs with this assessment.

- 3.13 The National Planning Policy Framework<sup>8</sup> (“the NPPF”) also identifies, in paragraph 118, “ancient woodland and ... aged or veteran trees found outside ancient woodland” as “irreplaceable habitats”.

- 3.14 This view is also shared by Natural England, as expressed in its document *Standing Advice for ancient woodland*<sup>9</sup> (“the Standing Advice”). For example, paragraph 3.1 of the Standing Advice states that:

“Ancient woodland is an irreplaceable resource of great importance for its wildlife, its history and the contribution it makes to our diverse landscapes.”

This paragraph of the Standing Advice also establishes a default position “to protect ancient woodland from damage or loss by development”.

Paragraph 3.3 refers to the aspiration that the Standing Advice will empower “robust protection of ancient woodland through land use planning”.

- 3.15 Further Natural England states in paragraph 3.4 of the Standing Advice its “two aims with regard to ancient woodland”. These are:

- “Maintenance of the area of ancient woodland, because this is an irreplaceable biological and cultural asset;
- “Improvement in the condition of our tree and woodland resource, through sensitive, sustainable management, including restoration of native woodlands to replace commercial plantations on ancient woodland sites and protection of veteran trees.”

- 3.16 To further underline Natural England’s commitment to protect ancient woodland the Standing Advice requires, in paragraph 3.5, that:

“Local Plans should include a policy requiring the strict protection of ancient woodland from loss or deterioration through development and undertake development management in line with the NPPF.”

---

<sup>8</sup> *National Planning Policy Framework*, Department for Communities and Local Government, March 2012

([https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/6077/2116950.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf)

).

<sup>9</sup> *Standing Advice for ancient woodland*, Natural England, 30 May 2012

([http://www.naturalengland.org.uk/Images/standing-advice-ancient-woodland\\_tcm6-32633.pdf](http://www.naturalengland.org.uk/Images/standing-advice-ancient-woodland_tcm6-32633.pdf)).

The policy, as expressed in paragraph 118 of the NPPF is:

“planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss.”

- 3.17 The NPPF policy echoes, in very similar words, the requirement of “key principle” 10 of Planning Policy Statement 9<sup>10</sup>, which the NPPF supersedes. It is clear that the presumption that development should not be permitted that will destroy ancient woodland and veteran trees unless the need for, and benefits of, that development can be shown to “clearly outweigh” that loss, has been Government policy for some time, and remains current Government policy. In this context it should also be noted that Natural England’s opinion, in Appendix 5 of the Standing Advice, is that any mitigation or compensation measures proposed should not be considered as “benefits” for the purposes of this determination, and should only be given consideration once it has been determined that the wider benefits of a development proposal do indeed outweigh the resulting loss in habitat.
- 3.18 Of course, the Standing Advice and the NPPF are intended to advise local authorities, who, in the normal course of events, are responsible for planning decisions. In the case of the HS2 proposal, the planning decisions will be made by Parliament, but the Community respectfully submits that Parliament would be wise to heed the counsel of Natural England and the policy of the NPPF on this matter, and that it would be appropriate for it to do so. Indeed, section 40 of the *Natural Environmental and Rural Communities Act 2006* requires “public authorities” to “conserve biodiversity”.
- 3.19 It would appear from the examples given in the Standing Advice of decisions made by planning inspectors that have been required to rule on applications to develop ancient woodland sites that these decisions have often turned on the consideration of whether the loss can be clearly outweighed by the need for and/or benefits of a proposal; this is clearly a determination that Parliament might also feel appropriate within its consideration of the HS2 hybrid Bill.
- 3.20 The Community respectfully suggests that the question to be examined is not whether the need for and/or benefits of the HS2 proposal outweigh the loss of ancient woodland and a veteran tree at South Cubbington Wood, but whether the need for and/or benefits of routing HS2 through that woodland satisfies that test. This implies that consideration should be given to whether there is any alternative track alignment that allows HS2 to be realised without damaging the woodland.

---

<sup>10</sup> *Planning Policy Statement 9: Biodiversity and Geological Conservation*, Office of the Deputy Prime Minister, August 2005  
(<http://webarchive.nationalarchives.gov.uk/20120919132719/http://www.communities.gov.uk/documents/planningandbuilding/pdf/147408.pdf>).

## Avoiding damage to the woodland

3.21 Alternatives that avoid damage to the ancient woodland and the veteran tree are feasible. In its response<sup>11</sup> to the 2011 consultation *High Speed Rail: Investing in Britain's Future*<sup>12</sup>, the Cubbington Action Group against HS2 proposed, in its comments on Question 5, that:

“consideration be given to boring a tunnel through the hillside on which the wood stands, similar to the solution offered to protect Long Itchington and Ufton Woods SSSI. Subject to a survey of the local hydrology, this would protect both South Cubbington Wood and the pear tree.”

3.22 In a design review<sup>13</sup> published in response to the consultation, HS2 Ltd investigated changes to the horizontal alignment in the section of route affecting South Cubbington Wood that would be possible if the design speed were reduced over this section. Two options were investigated that allowed the track to be routed away from the woodland and the veteran tree: reducing the design speed to 225mph (360km/hr), and a reduction to 186mph (300km/hr). The outcome of this review is reported in paragraph 4.3.16 to paragraph 4.3.21 of the HS2 Ltd document. Paragraph 4.3.18 concludes that:

“Reducing the line speed under either the 225mph or 186mph option would mean that the route would avoid going through South Cubbington Wood, providing a significant improvement to local biodiversity. However to avoid the woodland the alignment would move closer to the community of Cubbington, albeit in cutting, resulting in a potential increase in localised airborne noise.”

Paragraph 4.3.20 makes a comparison between the two reduced design speeds:

“Of the two alternatives the 186mph option would perform better in terms of noise, but would lead to a slower journey time.”

## HS2 Ltd mitigation proposal

3.23 The outcome of the HS2 Ltd review was to recommend the retention of the 250mph (400km/hr) design speed and the original horizontal alignment through South Cubbington Wood, thus rejecting the possibility of avoidance of the damage, but to opt for a strategy of mitigation of the damage, employing design modifications outlined in a further HS2 Ltd report<sup>14</sup>. Neither of the HS2 Ltd reports gave any consideration to, or indeed made any mention of, the bored tunnel option that had been suggested by the Cubbington Action Group against HS2.

---

<sup>11</sup> *Response by Cubbington Action Group against HS2 to the Public Consultation on the HS2 Proposals*, Cubbington Action Group against HS2, 18<sup>th</sup> July 2010 ([http://www.hs2-cubbington.net/wp-content/uploads/2013/07/cubbington\\_response.pdf](http://www.hs2-cubbington.net/wp-content/uploads/2013/07/cubbington_response.pdf)).

<sup>12</sup> *High Speed Rail: Investing in Britain's Future*, Department for Transport, February 2011([http://hs2andtheenvironment.files.wordpress.com/2013/10/hs2\\_2011\\_consultation\\_main\\_document.pdf](http://hs2andtheenvironment.files.wordpress.com/2013/10/hs2_2011_consultation_main_document.pdf)).

<sup>13</sup> *Review of HS2 London to West Midlands Route Selection and Speed*, HS2 Ltd (for Department for Transport), January 2012 (<http://assets.dft.gov.uk/publications/hs2-review-of-route-selection-and-speed/hs2-review-of-route-selection-and-speed.pdf>).

<sup>14</sup> *Review of possible refinements to the proposed HS2 London to West Midlands Route*, HS2 Ltd (for Department for Transport), January 2012 ([https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/3657/hs2-review-of-possible-route-refinements.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/3657/hs2-review-of-possible-route-refinements.pdf)).

3.24 The design modifications proposed are summarised in paragraph 3.2.3 of the second HS2 Ltd report:

“To the south we have sought to minimise the impacts on South Cubbington Wood by reducing the depth of the cutting, removing the access track and incorporating a 1,250m long retaining wall to minimise the width of the railway through the woodland. This would also bring some benefits to Cubbington itself by reducing spoil generation, and local landscape and noise impacts.”

Subsequent design changes have reduced the length of retaining wall to the minimum required to retain the cutting in the vicinity of the woodland, which is a 900 metre length on the eastern side of the cutting and approximately half this length on the western side (see map CT-06-091 in ES Volume 2 Map Book CFA17).

3.25 However, paragraph 3.2.4 of the same report admits to the limitations of this strategy:

“The route refinements and introduction of retaining walls at the cutting through South Cubbington Wood would reduce land take of the ancient woodland, though would still result in some fragmentation.”

### **Community proposal for avoidance of the damage**

3.26 The Cubbington Action Group against HS2 was not satisfied that HS2 Ltd had adequately investigated the opportunities for avoidance of the damage to South Cubbington Wood and the veteran tree, neither did it consider that HS2 Ltd had provided sufficient evidence that the need for, and benefits of, running HS2 through the woodland clearly outweighed the loss of habitat. Accordingly, in early May 2012 the group took the opportunity afforded by the newly-constituted Offchurch and Cubbington Community Forum to submit a proposal for a bored tunnel under South Cubbington Wood<sup>15</sup>.

3.27 It took until a bilateral meeting held on 15<sup>th</sup> August 2012 for HS2 Ltd to make any response to the bored tunnel proposal, and this was only a verbal assurance that the tunnel was “technically viable”. A more substantive response required the intervention of the Member of Parliament for Kenilworth and Southam, Jeremy Wright. This resulted in some outline costings being provided in September 2013 and a more detailed examination of the proposal, against “sift” criteria, followed in December 2013; consequently, it took more than eighteen months for HS2 Ltd to provide anything approaching an adequate response to the tunnel proposal, and even this was found to be incomplete in respect of information on estimated costs.

3.28 The reasons why the Community regards the sift process as inappropriate have been identified under Issue 2 above, in the section *Appraisal of benefits and costs*.

3.29 The option for “a 1.6km long tunnel under South Cubbington Wood” is mentioned in paragraph 2.6.11 of the ES Volume 2 Report CFA17. Paragraph 2.6.12 of the same report admits that this, and other tunnel options, “would

---

<sup>15</sup> *Impacts of HS2 in the Area around South Cubbington Wood and Considerations of Possible Mitigation Measures*, Cubbington Action Group against HS2, April 2012 ([http://wcchs2.files.wordpress.com/2012/08/south\\_cubbington\\_wood\\_mitigation\\_version2-1pdf.pdf](http://wcchs2.files.wordpress.com/2012/08/south_cubbington_wood_mitigation_version2-1pdf.pdf)).

have led to fewer significant environmental effects”, but that it has been rejected “because of the associated increased construction complexity and construction costs”. This statement falls far short, of course, of evidence that the need for and/or benefits of routeing HS2 through South Cubbington Wood outweigh the loss of ancient woodland and a veteran tree.

### **HS2 Ltd proposals for compensation for woodland loss**

3.30 In addition to the mitigation planned by HS2 Ltd, compensation for the loss of the woodland and the veteran tree is proposed. Paragraph 7.4.29 of the ES describes the principal proposal:

“Ancient woodland soil with its associated seed bank will be salvaged and translocated to a 5.3ha receptor site between North Cubbington Wood and Weston Wood. The receptor area will create a woodland link between North Cubbington Wood and Weston Wood, whilst retaining the degraded rush pasture in the southern part of Waverley and Weston Woods LWS. This will increase the connectivity of fragmented ancient woodland parcels.”

3.31 In addition, paragraph 7.4.31 of the ES promises “woodland compensation planting near South Cubbington Wood [that] will extend the size of the retained woodland to the east of the Proposed Scheme”. The ES paragraph also promises that:

“The planting will also link woodland habitats between this retained section of South Cubbington Wood and existing woodland pockets on the banks of the River Leam increasing woodland connectivity.”

3.32 Paragraph 7.4.38 advises that compensation for the loss of the wild pear tree “will include propagation of cuttings (grafting) along with seed collection from the tree to retain the genetic material from the tree”. The paragraph cautions that:

“Although a suitable option to try and retain the genetic material will be progressed, success cannot be guaranteed.”

3.33 It would appear from paragraph 7.4.33 of the ES that many of the residents of the communities within CFA 17 will be unlikely to live to see the “benefits” of these mitigation measures:

“There will be temporary adverse effects whilst the new woodlands become established and mature, which could be over a period of 50 years. However, many animals are likely to be able to utilise the new woodland creation areas prior to maturation, and scrub planting is likely to establish within 10 years of planting. This compensation planting, will result in permanent beneficial effects on the conservation status of the woodland habitats which will be significant at a district/borough level.”

### **Why the HS2 Ltd proposals are inappropriate**

3.34 The HS2 Ltd proposals, concentrated as they are on mitigation and compensation, run counter to Natural England’s advice. Paragraph 1 of Appendix 5 to the Standing Advice counsels:

“Therefore, where measures seek to address issues of loss or deterioration of ancient woodland, through the provision, for instance, of replacement habitat (compensation), or else through attempting to minimise the area of ancient

woodland affected (mitigation), Natural England's advice is that these should be issues for consideration only after it has been judged that the wider benefits of a proposed development outweigh the loss or damage of ancient woodland."

- 3.35 Habitat translocation, as proposed between North Cubbington Wood and Weston Wood, is also singled out for criticism in paragraph 3 of the appendix:

"Ancient wood as a system cannot be moved. It has developed over hundreds, and sometimes thousands of years. The soil composition and structure, varied topography, range of micro-habitats, species assemblages, and mycorrhiza fungi associations with tree roots, cannot be moved in their entirety. Translocation may also involve the loss of mature tree cover that cannot be replaced for tens if not hundreds of years. Therefore, whilst the translocation of ancient woodland is sometimes proposed as a compensation measure for the loss of ancient woodland, it is not possible to replicate the conditions at the site lost. At best some elements of the system – for example coppice stools, some soil (but not its current structure), large pieces of dead wood – can possibly be moved but the long-term benefits from this for biodiversity are largely unproven."

And in paragraph 4 of the same appendix:

"New woodland creation does not provide a direct replacement for the conditions found in ancient woodland and hence cannot be considered as mitigation for an irreplaceable environmental asset.

"Such woodland creation may provide some value in terms of improved habitat connectivity, carbon storage, and new access opportunities, but is very unlikely to substitute for the richness and diversity of the lost ancient woodland resource."

- 3.36 The Government's advisory body on nature conservation, the Joint Nature Conservation Committee ("the JNCC"), also regards the attempted translocation of ancient woodland soils unfavourably and opposes the practice in its publication *A Habitats Translocation Policy for Britain* ("the JNCC Policy")<sup>16</sup>. In paragraph 5 of the executive summary of this document it categorises such habitat translocation proposals as having "been portrayed by some as a means of reducing the impact of developments (mitigation), whereas in reality they can only partly make amends for developments (as incomplete compensation)".

- 3.37 The JNCC Policy is unequivocal in its opposition to the practice of habitat translocation. Paragraph 7.1 of the publication states:

"The translocation of habitats is considered by the statutory conservation agencies not to be an acceptable alternative to in situ conservation. The statutory conservation agencies will continue to make the strongest possible case against translocating habitats from within SSSIs and from ancient habitats (or other areas with significant biodiversity interest) elsewhere."

---

<sup>16</sup> *A Habitats Translocation Policy for Britain*, Joint Nature Conservation Committee in conjunction with The Countryside Council for Wales, English Nature and Scottish Natural Heritage, July 2003 ([http://jncc.defra.gov.uk/pdf/habitats\\_policy.pdf](http://jncc.defra.gov.uk/pdf/habitats_policy.pdf)).

The JNCC Policy goes on, in the same paragraph, to explain the evidence-based reasoning behind this policy:

“Translocation of habitats cannot reproduce the essential environmental conditions and the ecological processes, for example, migration, grazing and predation, which determine the composition of the original plant and animal communities. The available evidence shows that species in translocated habitats change their relative abundance over time, as well as being separated from their ecological, historical and cultural context. Thus, the intrinsic conservation value of translocated habitats is not sustained after the disruptions caused by their removal, transport and placement on a new site.”

A statement in paragraph 7.5 of the JNCC Policy could not be plainer:

“In summary, SSSIs and other conservation sites should never be translocated (in whole or in part) for habitat restoration purposes, while areas known to comprise ancient habitats should also not be translocated, and there should also be a strong presumption against translocating habitats from other areas where there is significant biodiversity interest.”

This policy statement would appear to apply to ancient woodland, which is an example of “ancient habitats”.

- 3.38 In the light of the reservations expressed in the Standing Advice and the JNCC Policy the Community cannot understand how the ES can claim, in paragraph 5.9.12 of Volume 5 Technical Appendix CT-008-000 (*Draft Environmental Statement Consultation Summary Report*), that, “The translocation of ancient woodland soils is a recognised best practice approach”.
- 3.39 The proposals in the ES for compensation for the planned destruction of the veteran wild pear tree in the hedgerow to the south of South Cubbington Wood do not even amount to translocation. What is proposed is the creation of young plants, which will do little more than preserve the DNA of the original, and even then the ES admits, in paragraph 7.4.38 of Report CFA17, that “success cannot be guaranteed”. The tree will, for all practical purposes, be lost.
- 3.40 The JNCC Policy does not specifically refer to veteran trees, but the Standing Advice notes, in paragraph 5.2.4, that, “The NPPF makes no differentiation in the treatment or protection of veteran trees found outside of ancient woodland”. Accordingly, similar considerations of appropriate compensation measures apply as is the case for ancient woodland. Paragraph 6.3.2 of the Standing Advice counsels planners to adopt, “policies that seek to avoid the loss of veteran trees, and encourage the conservation of such trees as part of development proposals”.
- 3.41 Paragraph 7.4.38 of Report CFA17 advises that the veteran wild pear tree “is hollow at the base” and makes the assessment that “translocation is extremely unlikely to be successful”. Since the proposals to preserve the genetic material of the tree fall far short of adequate compensation, it would appear that the only appropriate course, in line with JNCC policy, is to avoid the destruction of the tree by realignment of the proposed route of HS2.

## Ongoing management and monitoring

3.42 Paragraph 7.3 of the JNCC Policy identifies the need for ongoing monitoring of translocation receptor sites and for habitat management guided by such monitoring:

“Where habitats translocations are undertaken to attempt to compensate for the damaging effects of developments, or to increase (or decrease) the biodiversity of an area, monitoring the results (paid for by the proponents of the proposal) must take place. Such monitoring is needed to assess the nature and extent of the changes which take place within the translocated area, for example, in the abundance of different species. For monitoring to be effective, there must be detailed studies prior to translocation as well as for several years afterwards. The length of time that monitoring is required will depend upon the habitats and species involved and to an extent upon the results of the monitoring (for example, upon the speed and kind of ecological changes observed). The results of monitoring should also be used to guide the management of the translocated habitats in order to improve the prospects of sustaining their characteristic biodiversity.”

3.43 Paragraph 8.5.2 of Volume 1 of the ES lists “assumptions” that have been made “for the purpose of the ecological impact assessment”, which include that:

- “the operator will ensure provision of on-going management of all mitigation and compensatory habitat creation, either directly or through suitable legal and financial agreements with third parties.
- “the operator will commit to monitoring of both habitats and species in order to ensure that predictions of effects are accurate and that mitigation/compensation is successful.”

The term “operator” is used only in paragraph 8.5.2, and nowhere else in Volume 1, and is not defined in the *Glossary of Terms* volume that forms a part of the ES documentation.

3.44 The Community has not been successful in finding any other reference to the monitoring or management of translocated habitats anywhere else within the ES documentation, or indeed the text of the hybrid Bill. There appears to be accordingly a total lack of any commitment to ensure that these activities take place or to specify the extent and methodology for such activities. The Community regards this as a major omission from the ES and will be seeking appropriate undertakings for any translocated habitats that are planned within CFA 17.

## A better approach to compensation based upon restoration

3.45 Paragraph 4.1.4 of the Standing Advice advises that “ancient semi-natural woodland” is where:

“... the stands are composed predominantly of trees and shrubs native to the site that do not obviously originate from planting. The stands may have been managed by coppicing or pollarding in the past, or the tree and shrub layer may have grown up by natural regeneration.”

3.46 Paragraph 7.3.4 of ES Volume 2 Report CFA17 identifies South Cubbington Wood as ancient semi-natural woodland.

- 3.47 Paragraph 4.1.6 of the Standing Advice advises that “plantations on ancient woodland sites (PAWS)”, also known as “ancient replanted woodland” are:  
“... areas of ancient woodland where the former native tree cover has been felled and replaced by planted stock, most commonly of a species not native to the site. These will include conifers such as Norway spruce or Corsican pine, but also broadleaves such as sycamore or sweet chestnut.”
- 3.48 Paragraph 7.3.5 of Report CFA17 identifies North Cubbington Wood as ancient replanted woodland.
- 3.49 From a community amenity standpoint, North Cubbington Wood has little value as it is privately owned, has no public rights of way crossing it, and is largely fenced off to prevent public access.
- 3.50 Paragraph 4.1.3 of the Standing Advice indicates that ancient woodland is remarkably unaffected by the nature of the tree cover:  
“In most, if not all ancient woods, the trees and shrubs have been cut down periodically. The time between the felling occurring and the tree canopy being re-established will vary depending on the management regime, and regrowth may be delayed by deer grazing or other factors. Provided that the area has remained as woodland, the stand is still considered ancient. Since it may have been cut over many times in the past, ancient woodland does not necessarily contain old trees.”
- 3.51 Paragraph 4.1.7 of the Standing Advice tells us that both ancient semi-natural woodland and ancient replanted woodland are ancient woodland and that “thus both types should be treated equally in terms of the protection afforded to ancient woodland in the NPPF”.
- 3.52 Paragraph 3.4 of the Standing Advice states that one of Natural England’s “aims with regard to ancient woodland” is to seek an “improvement in the condition of our tree and woodland resource, through sensitive, sustainable management, including restoration of native woodlands to replace commercial plantations on ancient woodland sites”.
- 3.53 With the foregoing in mind, the Previous Submission included a proposal for “the restoration of North Cubbington Wood, in accordance with Woodland Trust principles”<sup>17</sup> in place of the HS2 Ltd plans for compensation planting on previously unwooded land. The Community assessment was that the former “appear[ed] to offer a much higher value proposal”.
- A restored North Cubbington Wood, in whole or in part, would offer a more assured route to achieving replacement habitat for the ancient woodland that HS2 would destroy and in a much shorter timescale. If this restoration were coupled with measures to allow controlled public access, then this would also go some way to compensating the local community for the amenity loss resulting from the impacts of HS2.
- 3.54 Whilst the proposal to restore North Cubbington Wood is identified in the Dialogue by Design Report, in paragraph 6.17.22, the Community is extremely

---

<sup>17</sup> *The conservation and restoration of plantations on ancient woodland sites*, Woodland Trust, 2005 (<http://www.woodlandtrust.org.uk/mediafile/100083912/The-conservation-and-restoration-of-PAWS.pdf>).

disappointed to note that it is not mentioned at all in ES Volume 5, Technical Appendix CT-008-000 (*Draft Environmental Statement Consultation Summary Report*) and no change of approach is evident from the proposals in Report CFA17.

### **The protection of human remains**

3.55 Paragraph 9.7.7 of ES Volume 1 outlines the policy that will apply to the treatment of human remains that will be directly affected by the construction of HS2, as follows:

“Where construction of the Proposed Scheme will directly affect human remains and monuments, notably burial grounds, the hybrid Bill will dis-apply the various legislative provisions, and a project-specific regime will be put in place to ensure that all human remains and burial grounds are afforded all due dignity, care and respect. A Human Remains and Monuments Procedure will be implemented to implement these requirements. Where burial has occurred over 100 years ago, consideration will be given to the need for and extent of archaeological investigation works.”

3.56 In 2012 the Chairman of the Cubbington Action Group against HS2 was contacted by a lady who used to live in Cubbington and now lives in Leamington Spa. This lady was concerned that her parents’ ashes had been placed some time before under a tree on the edge of South Cubbington Wood. Although the site of this inhumation was not within the area that would be required to be excavated to form the proposed cutting, there was a danger of the site being disturbed during the construction activities. It was the lady’s desire that the site be protected during the construction phase to avoid the risk of such disturbance.

3.57 Shortly after being contacted the Chairman of the Cubbington Action Group visited the site with the lady concerned and marked the location on a map and took some photographs to allow the site to be identified. This information was e-mailed<sup>18</sup> to HS2 Ltd, together with a request that HS2 Ltd ensures that “special measures” are put in place to “safeguard the tree and the soil around it”.

3.58 HS2 Ltd replied by e-mail<sup>19</sup> almost two months later advising that a letter had been posted to the lady concerned, but making no specific proposal to implement “special measures” during construction. HS2 Ltd did however comment that it “is confident that it can avoid impact to this tree during the construction phase of HS2”.

3.59 Since the draft ES failed to identify the inhumation site as a sensitive site, the Previous Submission noted this omission, in paragraph 2 of section 5.5 on page 14 of the document.

3.60 No mention of this issue having being raised in response to the consultation on the draft ES is recorded in the Dialogue by Design Report, neither is it mentioned in ES Volume 5, Technical Appendix CT-008-000 (*Draft Environmental Statement Consultation Summary Report*).

---

<sup>18</sup> E-mail to Ruth Newsum of HS2 Ltd from Peter Delow, dated 3<sup>rd</sup> September 2012.

<sup>19</sup> E-mail to Peter Delow Ltd from Ruth Newsum of HS2, dated 26<sup>th</sup> October 2012.

- 3.61 The Chairman of the Cubbington Action Group against HS2 used the opportunity of the meeting of the Offchurch and Cubbington Community Forum held on 12<sup>th</sup> September 2013 to raise the issue yet again with the representatives of HS2 Ltd that were present, and followed this up with an e-mail<sup>20</sup> to HS2 Ltd a few days later. No reply has been received to this e-mail.
- 3.62 The Community is concerned that, despite the requests that have been made to HS2 Ltd, we can find no reference in the ES to this sensitive site and the need for its protection. The importance of this issue had been increased by the discovery that the inhumation site is shown as within the pink shaded “land potentially required during construction” on map CT-05-091 in ES Volume 2 Map Book CFA17.
- 3.63 The Community can see no good reason why HS2 Ltd should chose to ignore this issue in the ES, and it would appear contrary to the policy set out in paragraph 9.7.7 of ES Volume 1 for it to do so. Further it appears insensitive of HS2 Ltd not to respond positively to the requests that have been made, bearing in mind the distress that any damage to, or disrespect for, the site will undoubtedly cause. The Community will continue to press for a firm undertaking on this matter.

#### **Issue 4 – Public rights of way**

- 4.1 The issues that the Community has with matters concerning the impacts that HS2 would have on public rights of way (PRoW) are considered separately below for the parishes of Offchurch and Cubbington.

#### **Offchurch**

##### **Impacts of HS2**

- 4.2 In Offchurch parish, many PRoW would be heavily impacted by HS2; refer to ES Volume 2 Report CFA17 paragraph 12.4.1 and paragraph 12.5.3, and Maps CT-05-088b to CT-05-090 and CT-06-088b to CT-06-090 in Volume 2 Map Book CFA17:
- Seven out of ten PRoW are dissected by HS2.
  - Approximately 58% of the route lengths will be impacted by levels of averaged day time noise higher than 50dB. (The pass-by noise of each train will be much higher).
  - In four cases, virtually the entire length of the PRoW will be affected by these noise levels.
  - In nine out of the ten PRoW more than one third of the route is impacted by noise levels higher than 50dB.
- 4.3 Impacts would include both those of the construction phase, and of HS2 operation, and would constitute a significant loss of amenity value. But the significance of the PRoW in Offchurch goes beyond amenity. The key contribution of Offchurch to the wider ecology is the four connected green corridors – Greenway, River Leam, GU Canal and Ridgeway – which link to important wetlands and woodland in the wider area. All four of these corridors would be cut by HS2. This means that the design of the crossing points, including PRoW, should take into careful consideration not only the needs of

---

<sup>20</sup> E-mail to Richard Johnston of HS2 Ltd, copied to Richard Nuttall of HS2 Ltd, from Peter Delow, dated 16<sup>th</sup> September 2013.

pedestrians but of wildlife. In one case (Greenway) the impact of this is mitigated with a proposal for a green bridge, but this is not the case more widely.

Examples of impacts on PRow include:

### ***Construction impacts***

- Footpath (bridleway) 129A and 129X. These PRow are shown as construction traffic routes. Insufficient detail is provided in the ES to assess the extent and length of time of this impact, what effect it will have on usage, and what alternative provision will be made.
- Footpath 125, Offchurch Greenway. It is indicated that these paths traverse land required for construction, but no details are given and nothing is stated as to how impacts will be mitigated and access maintained.
- Offchurch Greenway. Construction traffic on the Welsh Road is acknowledged to have a major adverse effect on the usage of the Greenway and on safe crossing between the two parts, but no mitigation or compensation is proposed, and local views on safer alternatives to the proposed re-routing of Welsh Road have not been sought.
- In nine out of the ten PRow more than one third of the route is impacted by noise levels higher than 50dB.

### ***Permanent diversions***

- Footpath 128. The diversion proposed will seriously impact usage of this path as it would run along a road and users from Offchurch (the great majority) would have to cross HS2 to reach it.
- Footpath 192 and Offchurch Greenway. Insufficient detail is provided on the proposed 'green overbridge' to assess whether it will be adequate to allow wildlife passage. It is important that the 'u' section of the Greenway should be filled on each side of the track to prevent noise funnelling along the path.
- Cycle path (Sustrans 41). The diversion proposed unnecessarily bisects a field and the crossing of the Fosse Way proposed is dangerous. Moreover it joins R41 to its temporary continuation along Long Itchington Road, not its permanent proposed continuation along the disused Leamington-Rugby railway track.
- Ridgeway Lane. Any claim that the raising of the track where it crosses this route and the Grand Union Canal can be partially justified, because it enables these routes to pass under the track, is not acceptable, as there would be much greater environmental advantages to lowering the track and providing an overpass.

### ***Mitigation of impacts***

- Planting and vegetation are adduced in the ES in several cases (W129X, W129Y, W125, W192/Greenway, Sustrans R41) as mitigating the permanent impact of HS2. These proposals are inadequate and usage of paths is likely to suffer considerably.

## Community proposals for Offchurch

- 4.4 The ES now accepts the proposal made in the Previous Submission to provide a footbridge over the track for path W129, but otherwise proposals submitted by the Offchurch HS2 Action Group<sup>21</sup> to mitigate the impact of HS2 on PRoW in Offchurch have not been accepted, even though they would be more effective than the proposals in the ES. These include several specific proposals:
- To route Sustrans R41 along Offchurch Greenway to the junction with the Fosse Way and construct a footbridge over the Fosse to enable it to join up with the proposed extension of R41.
  - To replace Path W128, which will be of little use if redirected as HS2 Ltd propose, by a new path along Butchers Hill, paralleling Welsh Road between Offchurch Village and the Greenway at the Welsh Road/Long Itchington Rd junction. This proposal has landowner and community support. HS2 Ltd has rejected it as it falls outside their designated land required for construction, but this is a purely self-imposed limit.
  - To consider, with the landowner, a re-routing of Path 129X along the river Leam to join diverted 129Y.
  - More broadly, the Community proposals for a cut and cover tunnel, discussed under Issue 2 above, and to lower the track height, discussed under Issue 1 above, would also have a major positive impact in mitigating the damage to many of the PRoW in the area.
- 4.5 These proposals reflect a local community strategy to secure some improvements to the local PRoW network from HS2 Ltd to help balance the major negative impacts. Engagement with the community on such issues by HS2 Ltd has not been forthcoming, and instead HS2 Ltd has used mechanisms like the Local Access Forum to bypass local opinion. The Community now needs HS2 Ltd to engage seriously with us on these issues.

## Cubbington

- 4.6 There are three PRoW running within the parish of Cubbington that would be affected by the HS2 proposals, all of which are footpaths; these are W129d (Mill Lane footpath), W130 (Shakespeare's Avon Way/ Millennium Way) and W130b. The proposals in the ES, in Volume 2 Report CFA17 paragraph 2.3.26, are for the first two to be "permanently realigned" via footbridges constructed over the trackway, and for W130b to be "permanently diverted", via the B4453 Rugby Road and the road bridge proposed over the trackway, in order to avoid the need to construct a footbridge for the PRoW; this will increase the "travel distance" for walkers along the footpath by 200 metres (refer to paragraph 12.5.9 of Report CFA17).
- 4.7 The Community accepts these long-term proposals, with the following caveats:
- The proposed route of W129d will require that walkers remain within approximately 350 metres of the planned HS2 centreline for virtually their entire journey through Cubbington. The Community believes that this will significantly reduce the quality of what is referred to in paragraph 12.4.33 of Report CFA17 as the "journey ambience", and will

---

<sup>21</sup> *Offchurch HS2 Action Group: Proposals for Public Rights of Way impacted by HS2 route*, submission to Warwickshire LAF Secretariat for onward transmission to HS2Ltd, 17<sup>th</sup> March 2013.

require assurances that every possible mitigation measure has been taken to minimise the impacts that HS2 would have.

- The section of W130 that traverses South Cubbington Wood is a particular delight of walking this footpath. The presence of HS2 will significantly reduce the journey ambience of this section of the walk and the Community requires due recognition to be given to this impact.
- The Community requires that the proposal to reroute W130b for approximately 600 metres along the B4453 Rugby Road makes adequate provision for pedestrian safety, and stated this in the Previous Submission, in paragraph 10 of section 2.2 on page 6, but apparently to no avail. In that paragraph of the Previous Submission we advised that: “[the B4453] is currently not a very pedestrian-friendly road. This concern applies to the ground-level section of the road, but also especially to the proposed elevated section and new road bridge. This requirement has not been discussed with local community representatives to date.”
- The proposed permanently diversion of W130b will require that walkers remain within approximately 250 metres of the planned HS2 centreline for about 800 metres of the path. In addition, Viewpoint 260.3.004, which lies close to the proposed new route for the footpath, is assessed as suffering a “major adverse effect” from visual impacts during construction and also for the whole of the sixty-year operational period chosen for analysis. The presence of HS2 will significantly reduce the journey ambience of this section of the walk and the Community requires due recognition to be given to this impact.

The Community intends to pursue these matters, and will seek undertakings where appropriate.

- 4.8 The Community welcomes the advice in paragraph 5.4.17 of Report CFA17 that “no temporary closures are likely to be necessary” affecting footpath W130 during the planned construction of HS2. Paragraph 2.3.26 of Report CFA17 advises that W129d will be provided with “a temporary alternative route via a scaffold overbridge for eight months”, but we can find no assurance in Report CFA17, or elsewhere, regarding continuity of use of that footpath during the construction period. Neither can we find any statement about the continuity of use of footpath W130b.

The Community will seek undertakings that all three footpaths will remain open during the construction period, with diversions in place as necessary.

## **Issue 5 – Construction traffic routes and other issues with construction**

### **Nominated construction traffic routes**

- 5.1 The Previous Submission, in paragraph 9 of section 2.3 on page 7, raised issues that the Community has with the proposals for routing construction traffic, including large numbers of heavy goods vehicles (HGVs), to allow materials to be brought into and carted away from the construction sites that will be established within CFA 17. In particular, Fosse Way and Welsh Road in Offchurch and Rugby Road and Kenilworth Road in Cubbington were cited as potential problem areas.

- 5.2 These issues with construction traffic routes were referred to in paragraph 6.17.19 and paragraph 6.17.20 of the Dialogue by Design Report, but they are not addressed in ES Volume 5, Technical Appendix CT-008-000 (*Draft Environmental Statement Consultation Summary Report*) other than at the route-wide level (in paragraph 5.14.7).
- 5.3 The “highways access route” proposals set out in paragraph 2.3.23 and table 1 in ES Volume 2 Report CFA17 are broadly speaking unchanged, at least as far as the impacts within CFA 17 are concerned. Accordingly, they do not address the issues raised in the Previous Submission.
- 5.4 In Offchurch, the Welsh Road, including a section through Offchurch village, is one of a number of sensitive routes which are identified for construction traffic. Others include the Fosse Way, Hunningham Road and the unmade track to Fields Farm. The ES should provide much more detail and justification than at present for the use of sensitive routes for construction traffic.
- 5.5 In the Previous Submission the Community raised, in paragraph 9 of section 2.3 on page 7, the following comments about the proposed routeing through Cubbington, which are still relevant:

“The proposed lorry routes for the Cubbington retained cutting construction site and the Coventry Road overbridge construction site involve passing the Cubbington Mill Care Home frontage onto Rugby Road, plus the frontages of nearly 200 dwellings on Rugby Road and Kenilworth Road<sup>22</sup>. The junction of Rugby Road and Kenilworth Road is a compact mini roundabout, with restricted sight lines, that many local residents regard as a road safety hazard; it is quite unsuitable for a right turn for heavy goods vehicles. This route choice will cause considerable annoyance and danger to residents and other road users and has not been discussed with the Cubbington Parish Council. It is an unacceptable proposal.”

Whilst the Community appreciates that there is no viable alternative to using Rugby Road east of its junction with Coventry Road for traffic to and from the Cubbington retaining wall satellite compound, we suggest that continuing along Coventry Road would represent a far less problematic route, albeit that it would not avoid passing the Cubbington Mill Care Home frontage.

Similarly, there seems no good reason why traffic to and from the Coventry Road overbridge compound should use Rugby Road and Kenilworth Road at all, since Coventry Road affords direct access to A445 Leicester Lane.

- 5.6 In the same paragraph 9 of the Previous Submission, the Community also requested confirmation that “all contractors will be prohibited from using Mill Lane Cubbington as a means of access to the Cubbington construction site”. No such confirmation has been forthcoming, and this issue has been overlooked in both the Dialogue Design Report and ES Volume 5 Technical Appendix CT-008-000 (*Draft Environmental Statement Consultation Summary Report*).

Map CT-05-091 in ES Volume 2 Map Book CFA17 illustrates the reason for the concern expressed by the Community about Mill Lane. The whole of Mill Lane, the footpath W129d towards South Cubbington Wood and the track to Lower

---

<sup>22</sup> 20 on Rugby Road east of Coventry Road, 100 on Rugby Road west of Coventry Road and 70 on Kenilworth Road, approximately

Grange Farm are marked as “land potentially required during construction” and connect into the main construction site. Since Mill Lane feeds into the junction of Cross Lane and New Street, this appears to be a far too tempting potential access point to the construction site.

- 5.7 The Community notes, with some relief, that the estimated typical number of construction vehicle trips that were given for each construction compound type in table 16 of Volume 2 Report CFA17 of the draft ES have been significantly revised downwards in deriving the estimates in table 17 on page 175 of ES Volume 2 Report CFA17. Even so the estimated number of daily trips during the peak month of activity will make a significant contribution to the traffic on our local roads. For example, table 17 indicates that the additional traffic flowing along Kenilworth Road and Rugby Road in Cubbington could be between 85 and 110 HGVs plus between 180 and 230 cars/light goods vehicles per day during the peak month of activity.

The sightings of HGVs using some of the roads that have been nominated as routes for construction traffic are currently comparatively infrequent and some sections of these roads are quite unsuitable for HGV – the Previous Submission cited the “compact mini roundabout” at the junction of Rugby Road and Kenilworth Road as an example. In view of this the Community cannot concur with the evaluations in paragraph 12.4.17 of Report CFA17 that the “substantial increases in daily traffic flow” forecast by the ES will have only a “minor adverse affect” on roads such as West Hill Road and Kenilworth Road.

- 5.8 In order to minimise the impact of construction traffic upon the roads in CFA 17, the Community wishes to see the maximum use made of the trackbed and/or associated haul roads to carry materials and equipment into and out of CFA 17, and from the earliest possible date. Other than a general commitment to the use of “internal haul routes for construction vehicles within the construction sites” in ES Volume 1 paragraph 9.13.1 and a similar aspiration in paragraph 12.4.1 of ES Volume 2 Report CFA17, we have been unable to find any specific proposals in the ES that give us confidence that our wishes will be fulfilled.

#### **Other construction issues**

- 5.9 The proposed scheme sets out a particular design for HS2 which effectively determines the construction to be used in paragraph 2.3.1 of ES Volume 2 Report CFA17. The proposed scheme effectively rejects the main mitigation proposals put forward by the Community on cost grounds despite their providing less environmental impact than the design proposed by HS2. Therefore many of the construction comments made in this submission reflect the design proposed by HS2 which have, in turn, influenced the construction proposed.
- 5.10 With regard to paragraph 2.3.6 of ES Volume 2 Report CFA17, the Community has already commented fully on the draft Code of Construction Practice (CoCP), in the version that was published in May 2013, in the Previous Submission and further comments are made in responding to Question 6 below.
- 5.11 With regard to paragraph 2.3.25 of Report CFA17, highway and road diversions are driven by the HS2 proposed design and would be much changed/reduced if

the Community's mitigation proposals set out under Issue 1, Issue 2 and Issue 3 above were adopted. Similar considerations apply in the case of the footpath, cycleway and bridleway diversions referred to in paragraph 2.3.26 of Report CFA17.

- 5.12 Proposals for material transfer and stockpile areas in paragraph 2.3.31 of Report CFA17 are driven by a combination of the HS2 design and also the HS2 policy of neutral spoil transfer, ie the spoil removed from a cutting is used nearby to form a false cutting to use up all the spoil and avoid it being transferred to another locality. The amount of spoil to be dealt with in this fashion would be quite different and the environmental impact reduced if the Community's mitigation proposals were adopted.
- 5.13 The proposal for a large materials handling area immediately north of the proposed track between Offchurch Greenway and the Fosse Way would mean major disturbance to nearby properties (and to users of Offchurch Greenway) over a long period of more than five years, including the potential for night working. As no indication is given about how this nuisance will be mitigated, consideration must be given to alternative, less disruptive locations for this facility.
- 5.14 Paragraph 2.3.51 of Report CFA17 and figure 5 refer to the construction programme. During the initial Community Forum meetings, HS2 Ltd senior staff advised that the overall construction period within our locality would be 18 months to 2 years. We now are faced with a construction period of 5 years with no indication in figure 5 as to whether this includes the removal of all construction compounds and returning the affected areas to their rural condition.
- 5.15 The handling of soil during construction, as discussed in paragraph 3.4.3 of Report CFA17, requires that the handling of soil is carried out using "best practice" to ensure that there is no long term deterioration of disturbed land. This cannot be left to the current vague statement as drafted.
- 5.16 Paragraph 3.4.4 of ES Volume 2 Report CFA17 refers to compliance with the CoCP. This document is only in draft and has no attendant Local Environmental Management Plan ("LEMP") agreed with the local authorities. This comment is also relevant to any clause in the ES that refers to the CoCP. The LEMP would need to be prepared as a priority if HS2 goes ahead. In particular:
- The proposals in Report CFA17 section 4 (*Air Quality*) rely heavily on correct application of the CoCP.
  - The proposals relating to land quality in section 8 of Report CFA17 also rely heavily on the CoCP.
  - Sound, noise and vibration impacts discussed in section 11 of Report CFA17 require the draft CoCP to be finalised and the LEMP to be agreed. Working hours, construction methods and haul routes on public roads are among matters requiring particular attention. The mitigation measures that community groups have proposed would improve on the initial mitigation measures incorporated into the current HS2 design. This is a particularly sensitive subject in an area that is largely greenbelt and includes both conservation and tranquil areas. The criteria need to be not

merely what the codes recommend, but rather what is the best mitigation that can be incorporated into the final design.

- The proposals for flood risk management in section 13.4 of Report CFA17 must recognise that the river Leam is a flood risk area and particular attention must be taken to avoid the Welsh Road flooding at Offchurch due to construction activities. A similar consideration applies to the risk to parts of Cubbington from surface water run off.
- Of particular concern is the lack of any third party inspection in the draft CoCP.

5.17 Paragraph 3.4.4 of Report CFA17 also uses the term where or as far as "reasonably practical" in two of its bullet points. This expression is too vague for an exemplar project and must be better qualified wherever it appears in the ES.

5.18 It is assumed in paragraph 5.2.2 of Report CFA17 that there will be no significant effect on the local area or local community due to construction workers being housed over a period of 5 years in a rural area. Since the CoCP is in draft only and no LEMP is in place, this cannot be accepted as a definitive statement; it is merely an assumption by HS2 Ltd. Similarly paragraph 5.4.2 of Report CFA17 relies heavily on the CoCP to mitigate the effects of construction on the community. The CoCP is only in draft form and requires a LEMP to ensure the community is protected.

5.19 It is proposed, in paragraph 5.5.1 of Report CFA17, to use the earth removed from local cuttings during construction to create false cuttings to reduce visual and noise effects. No cross sections of these earthworks have been provided nor have noise fence barriers been proposed in many of these areas. This entire subject has not been discussed with the community at Community Forums to arrive at an optimised design – please refer also to the further discussion on this matter under Issue 9 paragraph 9.10 to paragraph 9.18 below.

## **Issue 6 – Agriculture**

6.1 The impact of both construction, as assessed in paragraph 3.4 of Report CFA17, and operation, as assessed in paragraph 3.5 of Report CFA17, on farms and farm businesses is more fully recognised than in the draft ES but is still considered by farming interests in our community to be inadequate. For example, the difficulty of purchasing more land to replace that taken is glossed over.

6.2 The ES fails to note that the proposal submitted by the Offchurch HS2 Action Group for a cut and cover tunnel would reduce permanent land take, and that similar considerations would apply to the bored tunnel proposal submitted by the Cubbington Action Group against HS2. This is one of many results of the failure of HS2 Ltd to give serious consideration to alternative proposals in preparing the ES.

## **Issue 7 – Community and residential properties**

7.1 The ES identifies, in paragraph 5.4.4 and paragraph 5.4.6 of Report CFA17, major adverse effects during construction to a number of residential properties. It also identifies, in paragraph 5.4.11 and paragraph 5.4.12 therein,

permanent effects of construction on a number of properties. No indication is given as to consideration of design alternatives which might reduce or eliminate such impacts.

- 7.2 Consideration, in section 5.5 of Report CFA17, of the permanent impact of operation on the local community including residential properties is minimal, containing no place or property-specific information whatsoever, and claiming that as a result of mitigation measures there will be no significant impacts. The Community does not accept this (lack of) assessment, especially until fuller specification of mitigation measures is available.

### **Issue 8 – Socio-economics**

- 8.1 Section 10.3 of the ES is seriously deficient in its assessment of socio-economic data for CFA 17 as it relies almost exclusively on large-area data, rather than knowledge (eg from a survey) of the local economy/businesses.
- 8.2 Statements in paragraph 10.4.3 and paragraph 10.4.10 of Report CFA17 to the effect that there will be no temporary or permanent effect on businesses are highly contentious. Tourist and leisure-related businesses (eg public houses, Wolf Run) are among those likely to suffer serious permanent impact.

### **Issue 9 – Visual and noise mitigation**

#### **Landscape and visual assessment**

- 9.1 ES Volume 2 Map Book CFA17 contains six photomontages, as follows:
- LV-01-112, viewpoint 248-4-002: View west from Welsh Road Bridge over the Grand Union Canal (Offchurch). The photomontage creates the view for the winter of year 1 of operation. The impact of HS2 is rated as “minor adverse effect” in table 7 in ES Volume 5, Technical Appendix LV-001-017.
  - LV-01-113, viewpoint 249-2-003: View north-east from Bunkers Hill Cottages (Offchurch). The photomontage creates the view for the winter of year 1 of operation. The impact of HS2 is rated as “negligible effect” in table 7 in ES Volume 5, Technical Appendix LV-001-017.
  - LV-01-114, viewpoint 253-2-001 (first view): View east from Valley Fields (Offchurch). The photomontage creates the view for the winter of year 1 of operation. The impact of HS2 is rated as “major adverse affect” in paragraph 9.5.95 of Report CFA17.
  - LV-01-197, viewpoint 253-2-001 (second view): View east from Valley Fields (Offchurch). The photomontage creates the view in winter for the peak construction phase. The impact of HS2 is rated as “major adverse affect” in paragraph 9.4.46 of Report CFA17.
  - LV-01-246, viewpoint 253-2-001 (third view): View east from Valley Fields (Offchurch). The photomontage creates the view for the summer of year 15 of operation. The impact of HS2 is rated as “moderate adverse affect” in paragraph 9.5.98 of Report CFA17.
  - LV-01-115, viewpoint 259-3-004: View north-east from PRoW footpath W130, and Cubbington CE Primary School and Play Area (Cubbington). The photomontage creates the view for the winter of year 1 of operation. The impact of HS2 is rated as “negligible effect” in table 7 in ES Volume 5, Technical Appendix LV-001-017.

- 9.2 Table 5 in ES Volume 5, Technical Appendix LV-001-017 identifies a total of thirty-nine viewpoints within CFA 17 that have been assessed in winter for the construction phase. Table 7 in that appendix identifies thirty-two viewpoints that have been assessed for impacts of HS2 operation, each at four different stages in the first sixty years of operation. This implies that a total of 167 photomontages would be required to cover every viewpoint and assessment. It is therefore reasonable that only a selection of photomontages is presented in Map Book CFA17. However, the Community has been unable to find an explanation in the ES of the selection criteria that has been employed to arrive at the six photomontages that have been provided, other than the statement in paragraph 8.7.14 of ES Volume 1 that the locations are “from locations agreed with the statutory consultees or through visualisations”.
- 9.3 Whatever the selection process that has been employed for the photomontages, the choices that have been made display some unfortunate characteristics. For example:
- Cubbington is disproportionately under-represented, with only one photomontage against five in Offchurch.
  - Three of the photomontages relate to impacts that have been assessed as “minor adverse” or “negligible” in the ES. The only photomontage that relates to Cubbington is one of those assessed as “negligible”.
  - A total of nineteen viewpoints are identified in Chapter 9 of Report CFA17 as suffering a “major adverse effect” for at least one of the five assessment times. Only one of these viewpoints is represented in the photomontages chosen.
  - Of the six photomontages provided, three relate to the same viewpoint.

In the light of these observations, the Community does not regard the selection of photomontages that has been made for inclusion in ES Map Book CFA17 as sufficiently representation of the impacts that would result from HS2.

- 9.4 In the Previous Submission (in paragraph 4 of section 9.5 on pages 17-18) the Community commented that “in view of the currently high recreational value of the walk along the Mill Lane footpath (W129d) and the views across the Leam valley obtained during this walk” we “view the omission of a viewpoint from this footpath at the southern end of South Cubbington Wood as unacceptable”. The Community finds it very regrettable that the ES has not rectified this important omission.

### **Noise impacts**

- 9.5 The three *Operational Noise and Vibration Impacts and Likely Significant Effects* maps that have been presented in ES Volume 2 Map Book CFA17 (SV-05-044b, SV-05-045 and SV-05-046) purport to illustrate the locations where “generally no adverse effect [is] expected” as those not within the grey (or pink) shaded areas, which are delimited by the 40dB(night) – and equivalent 50dB(day) – contour. However, one property within CFA 17 that is outside this area is marked on the maps as suffering “major adverse” impacts, and four more are indicated as “moderate adverse”. Clearly, the shading does not indicate the full extent of the noise impacts expected from HS2, because it does not take into account the change in sound level that would result. In addition, receptors have been identified in table 1 of ES Volume 5 Technical

Appendix SV-004-017 (CFA17 Offchurch and Cubbington Operational assessment sound, noise and vibration) that lie outside of the shaded area but are predicted to suffer day noise in excess of 50dB  $L_{Aeq}$  or night noise in excess of 40dB  $L_{Aeq}$ . Accordingly, the Community regards these maps as inadequate.

9.6 The choice of a 50dB  $L_{Aeq}$  daytime noise threshold is ostensibly consistent with the World Health Organisation (WHO) advice that this level should not be exceeded in order to “protect the majority of people from being moderately annoyed during the daytime” (refer to section 4.3.1 of the WHO Guidelines<sup>23</sup>). However, in the same paragraph of the WHO Guidelines, two significant caveats to this advice are identified:

- The WHO specifies that the advice applies to “a steady, continuous noise”, which HS2 operational airborne noise would certainly not be. Elsewhere in the WHO Guidelines (section 4.2.7) it is noted that, “The annoyance response to noise is affected by several factors, including the equivalent sound pressure level and the highest sound pressure level of the noise, the number of such events, and the time of day”.
- The WHO notes that “most countries in Europe have adopted 40dB  $L_{Aeq}$  as the maximum allowable level for new developments” and advises that “the lower value [40dB] should be considered the maximum allowable sound pressure level for all new developments whenever feasible”.

The Previous Response noted the WHO’s preference for using 40dB as a threshold and made the following suggestion (in paragraph 3 of section 5.12 on page 37):

“Whilst it is understood that for HS2 Ltd to adopt the lower threshold suggested by the WHO would significantly increase the number of properties that it has to acknowledge are affected by HS2 noise, it is suggested that it would greatly assist residents if the daytime noise contours and colour shading on the maps were extended down to 40dB, even if this addition were deemed to be ‘for information only’, with no impact significance attributed to it. On such terms, this additional, and most useful, information could be provided without having adverse implications for the project.”

This suggestion is only mentioned very briefly in the Dialogue by Design Report (in paragraph 8.3.7) and is not specifically discussed in ES Volume 5, Technical Appendix CT-008-000 (although paragraph 5.2.15 provides a terse dismissal of all issues that had been raised on the assessment methodology). Accordingly, the Community wishes to re-submit this suggestion.

9.7 Section 4.2.7 of the WHO Guidelines comments further about factors which may affect the annoyance response to noise, reporting that the effects of combining various factors “have been extensively studied”. The WHO notes that the results from these studies “are not inconsistent with the simple, physically based equivalent energy theory, which is represented by the  $L_{Aeq}$  noise index”. Whilst this gives some support to the sole use of the equivalent

---

<sup>23</sup> *Guidelines for Community Noise* Chapter 4, World Health Organisation, Geneva 1999 (<http://www.who.int/docstore/peh/noise/Comnoise-4.pdf>).

continuous sound level to assess annoyance, as has been employed in the ES, the same section of the WHO Guidelines also advises that:

“Sound pressure levels during the evening and night should be 5–10 dB lower than during the day. Noise with low-frequency components require (*sic*) even lower levels. It is emphasized that for intermittent noise it is necessary to take into account the maximum sound pressure level as well as the number of noise events.”

This latter extract surely indicates that the WHO holds the view that a single daytime equivalent continuous sound level will not sufficiently characterise the annoyance response. The WHO Guidelines also note elsewhere (in section 2.1.5<sup>24</sup>):

“ $L_{Aeq,T}$  should be used to measure continuing sounds such as road traffic noise, many types of industrial noises and noise from ventilation systems in buildings. When there are distinct events to the noise such as with aircraft or railway noise, measures of the individual events should be obtained (using, for example,  $L_{Amax}$  or SEL), in addition to  $L_{Aeq,T}$  measurements.”

The Community holds the view, based upon the advice in the WHO Guidelines, that the *Operational Noise and Vibration Impacts and Likely Significant Effects* maps fail to reflect adequately the annoyance response to HS2 noise, due to the maps being based solely upon the consideration of the equivalent continuous sound level.

- 9.8 HS2 Ltd appears to have failed to acknowledge the very real concerns that local communities have that the prime annoyance response mechanism of HS2 operational airborne noise will be triggered by individual pass-bys, rather than the aggregated noise energy over a period of several hours. This concern is reflected in the Dialogue by Design report, which comments that “Many respondents express dissatisfaction with the time-average calculations” (in paragraph 5.2.56). Whatever the merits of this concern, HS2 Ltd has signally failed to engage with local communities to explain why its experts consider that the equivalent continuous sound level provides a true indication of the annoyance response.
- 9.9 In using  $L_{pAeq,07:00-23:00}$  as the parameter for the assessment of HS2 daytime operational airborne noise, the ES fails to acknowledge the intention, as expressed in Environmental Noise Directive (END)<sup>25</sup>, of the European Parliament and the Council to establish “harmonised indicators for the determination of noise levels” as stated in Recital 8 in the preamble. The equivalent END selected common indicator for the purposes of assessing annoyance is the day-evening-night level, abbreviated as  $L_{den}$ . Full compliance with the aims of the END would require the ES to utilise  $L_{den}$  to assess the annoyance response and  $L_{night}$  to assess sleep disturbance, as required by Recital 9 in the preamble to the END. The use of  $L_{den}$  would have the advantage

---

<sup>24</sup> Guidelines for Community Noise Chapter 2, World Health Organisation, Geneva 1999 (<http://www.who.int/docstore/peh/noise/Comnoise-2.pdf>).

<sup>25</sup> Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise, Official Journal of the European Communities (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:189:0012:0025:EN:PDF>).

of reflecting the advice in the WHO Guidelines that, “Sound pressure levels during the evening and night should be 5–10 dB lower than during the day”.

The Previous Response suggested this change as a “best practice” approach (in paragraph 2 of section 5.12 on page 37). This suggestion is not mentioned in the Dialogue by Design Report and is not specifically discussed in ES Volume 5, Technical Appendix CT-008-000 (although paragraph 5.2.15 provides a terse dismissal of all issues that had been raised on the assessment methodology). The Community is disappointed to find that the parameter  $L_{den}$  has not been adopted for the ES in place of  $L_{pAeq,07:00-23:00}$ . Accordingly, the Community wishes to re-submit this suggestion, and hopes for a better hearing this time.

### **The mitigation of visual and noise impacts**

9.10 Save from an indication on map SV-05-045 that fence noise barriers, varying in height from 3 metres to 7-9 metres, have been specified over a section of the proposed track between chainages 132+400 and 133+100 approximately – a design feature that appears to be confirmed in paragraph 2.2.8 of Volume 2 Report CFA17 – the only mitigation from visual and noise impacts that has been proposed for CFA 17 is “raised earthworks” and planting.

In addition to a number of small embankments, five large proposed raised earthworks can be identified from the drawings in Map Book CFA17 and the descriptions in section 2.2 of ES Volume 2 Report CFA17:

- A “false cutting” in association with the 825 metre embankment between the Longhole viaduct and the Offchurch cutting (chainages 129+700 to 130+600, approximately).
- A 500 metre screening embankment on the northern side of the Offchurch cutting, near Burnt Heath farm (chainages 130+900 to 131+400, approximately).
- A “false cutting” running for 1,500 metres in association with the shallower northern stretch of the Offchurch cutting and the embankment on the southern side of the Leam valley (chainages 132+300 to 133+800, approximately).
- A “false cutting” running for 700 metres in association with the embankment on the northern side of the Leam valley (chainages 139+900 to 134+600, approximately).
- A “false cutting” running for 300 metres within CFA 17 in association with the shallower northern stretch of the Cubbington cutting, but extending into CFA 18 with extensive earthworks around Leicester Lane (136+400 to 137+900, approximately).

9.11 Although these earthworks are presented as mitigation – shielding the railway from view and reducing the noise impact – the primary motivation behind them appears to be the reuse of excavated material. Paragraph 5.2.4 of ES Volume 1 makes this clear:

“Priority will be given to reusing material excavated from the Proposed Scheme in the engineering earthworks to form embankments, and environmental mitigation earthworks along the route. This will assist in reducing the need for the off-site disposal of surplus excavated material, and its associated environmental effects. This approach will also reduce the impact of the

Proposed Scheme by making best use of the excavated material to significantly reduce the need to import material.”

This strategy is referred to as an “integrated earthworks design approach” in paragraph 6.3.44 of ES Volume 1.

- 9.12 That HS2 Ltd has achieved success in the application of the “integrated earthworks design approach” is evidenced from paragraph 6.3.36 in ES Volume 1:

“The majority of excavated material that will be generated across the Proposed Scheme will be reused as engineering fill material or in the environmental mitigation earthworks of the Proposed Scheme.”

- 9.13 The proposals for CFA 17 require the excavation of two large cuttings, and yet table 2 in ES Volume 2 Report CFA17 (on page 25) indicates that, despite more than 6 million tonnes of excavated material being generated, none will be required to be disposed of off-site. This has been achieved by proposing some very large earthworks in sensitive landscape contexts, notably the Leam valley and the Ufton Vale Farmlands.

- 9.14 The Community has been unable to find any details of these earthworks in the ES, save for plan views. Notably absent appear to be any indications of height, the degree of screening of the railway offered, the gradients of the outer faces, or cross-sections, or the degree of noise mitigation provided. Neither do the photomontages offer any assistance; they give scant indication of how the finished earthworks will look in the landscape.

- 9.15 In the Previous Submission, the Community complained (in paragraph 5 of section 2.2 on page 4) that:

“References to raised earthworks for screening purposes need to specify their height and provide at least basic profile information. Without this it is impossible to assess the effectiveness of mitigation and the proposals in the draft are therefore unacceptable.”

A request for “further justification and quantification of the benefits” of the screening earthworks is referred to in paragraph 6.17.28 of the Dialogue by Design Report, but the omission of this information is not addressed in ES Volume 5, Technical Appendix CT-008-000 (*Draft Environmental Statement Consultation Summary Report*) and the ES documentation does not rectify this shortcoming in any way.

The Community holds the view that the scant details that have been provided of the proposed earthworks represent an inexcusable omission and will pursue this information further.

- 9.16 In the Previous Submission the Community questioned, in paragraph 5 of section 2.2 on pages 4-5, how efficient the screening earthworks were in mitigating noise:

“Judging by the sound contour maps for the Leam Valley area, the “raised earthworks” proposed to be employed in this sensitive area are not particularly effective in mitigating the noise pollution.”

This query has not been addressed, either in the Dialogue by Design Report or ES Volume 5, Technical Appendix CT-008-000, and the ES provides no

enlightenment in this respect. The Community remains to be convinced that the employment of raised earthworks justifies a failure to specify noise fence barriers over most of the proposed HS2 run through CFA 17.

- 9.17 The Community holds the view that applying the “integrated earthworks design approach” is likely, on the one hand, to lead to inadequate screening in some places, and excessively large earthworks in others, and requires reassurance that the proposals for CFA 17 represent an optimal design for mitigation. The position of the Community was summarised in section 3.5, paragraph 3 on pages 32-33 of the Previous Submission, and this remains our position:

“Proposed earthworks must be justified on grounds of their positive mitigation effects in screening the track and reducing noise impact, not in terms of economics and cost saving.”

In section 2.2, paragraph 5 on pages 4-5 of the Previous Submission the Community remarked that, “The appropriateness of these proposed structures, which are a significant visual intrusion ... has never been discussed with local community representatives”. It is the view of the Community that HS2 Ltd has yet to “sell the benefits” of the proposed earthworks to our community, and we intend to pursue this matter.

- 9.18 At numerous points (for example between the tracks and residential properties along Long Itchington Road) tree planting is proposed as a mitigatory measure. It is recognised however that the full effect of such planting, which will in any case be very limited, will only occur after a period of up to 60 years. The Community does not therefore regard planting alone as a serious response to mitigation requirements.

### **Light pollution**

- 9.19 The proposed route of the track in CFA 17 is one characterised by low levels of light pollution at night. Lighting of the track, and of associated works including potentially the realigned Fosse Way road crossings, would seriously detract from this ‘dark sky’ amenity. The proposals for the Cubbington bored tunnel and Offchurch cut and cover tunnel would not totally eliminate this negative impact, but would very substantially reduce the length of track over which light pollution occurs.

### **Issue 10 – Surface water flooding**

- 10.1 In paragraph 1 of section 13.4 on pages 22-23 of the Previous Submission, the Community made the following observation:

“We are surprised that no mention is made of the risk of flooding to parts of the village of Cubbington by surface water run off. This risk has necessitated an existing flood alleviation scheme being constructed in the grounds of the Cubbington CoE Primary School. However this scheme was insufficient to prevent the flooding of homes in the southern part of the village in July 2007, when heavy rain caused the Pingle Brook to burst its banks. A new flood alleviation scheme, running from Mill Lane to the Pingle Brook below Thwaites’ factory, has been approved and work on constructing this scheme is due to start in August 2013.”

10.2 Paragraph 2.1.21 of ES Volume 2 Report CFA17 refers to a “committed development” for “the construction of a flood alleviation scheme including the laying of pipe work and associated headwall construction and earthworks to create attenuation areas”. The paragraph advises that the development will be “on land to the south of Thwaites Works east of Welsh Road, south of Cross Lane and either side of Mill Lane, Cubbington”. Despite this acknowledgement of the need for flood alleviation in Cubbington and the recent incidence of surface water flooding, paragraph 13.3.42 inexplicably claims:

“The Environment Agency Mapping, Warwick SFRA and the Warwickshire PFRA indicate that there have been no historical incidents of surface water flooding within the study area.”

### **Issue 11 – Environmental Baseline maps**

11.1 The three *Environmental Baseline* maps that have been presented in ES Volume 2 Map Book CFA17 (CT-10-044b, CT-10-045 and CT-10-046) are a wholly inadequate to gauge the impact of HS2 on CFA 17. While more information is available in appendices, the summaries in the Environmental Baseline maps are quite inadequate and fail to capture issues of local importance, such as wildlife corridors:

- They do not record any woodland other than statutory protected areas. There is no recognition of any of these areas of woodland in Offchurch: along the canal; the veteran wild pear (with TPO); Welsh Road Farm shelter belt; Burnt Heath Farm; Sutton Spinney; Ash Beds; Welsh Rd. Long Itchington Rd junction; along Greenway; along the River Leam. Similarly, in Cubbington: the copse on the north bank of the River Leam on footpath W129d; the veteran wild pear tree on W129d near South Cubbington Wood (with TPO).
- Reference is made to these areas of woodland in Volume 2 Report CFA17 – eg in section 9.4 which describes the ‘positive’ effects of such woodland on ‘filtering’ the view of the train – but there is no recognition of the same woodland in the Environmental Baseline maps.
- The Environmental Baseline maps do not identify different ecologies in order to make clear what the different impacts of the construction and operation might be. Thus, although the construction maps show the diversion of streams from Ash Beds for example, this is not shown as a wetland on the Environmental Baseline maps and so the impact of diverting the stream is not made evident. Similarly, unless the Environmental Baseline maps recognise the reed beds and wet area around the point of the proposed viaduct across the River Leam, there will be no proposals to try to avoid damage to this ecology, and to mitigate or compensate for such damage if it occurs.

### **Question 6: Please let us know your comments on Volume 5: Appendices and map books.**

The Community wishes to make the following comments on Appendix CT-003-000 (*Draft code of construction practice*); these comments cover general principles rather than being a section by section comment on the CoCP.

- 1 Appendix CT-003-000 remains as a draft and is essentially the same as the draft CoCP that was sent out with the draft Environmental Statement. Therefore

virtually all the comments made in the Previous Submission remain relevant to this later Environmental Statement consultation. Accordingly, Appendix CT-003-000 needs to be modified in line with the comments sent to and received by HS2 Ltd at the time of the draft Environmental Statement. Only then can the final code of construction practice be compiled

2 Once available, this final CoCP can be used to produce the Local Environmental Management Plan (LEMP) for each area, in conjunction with local councils, parish councils and other appropriate stakeholders. Then the construction of HS2 can proceed on a correct and firm footing.

3 Key (only) points requiring particular attention in raising the draft CoCP to a final status are set out below:

- Paragraph 2.1.3 of Appendix CT-003-000 states "comply as a minimum". This is not conducive to HS2 Ltd ethos of producing a "world class exemplar project". The words need to reflect the stated intent.
- Paragraph 3.4.1 of Appendix CT-003-000 does not spell out the entity that will be the Nominated Undertaker. This needs to be spelt out, including their role and to whom they are responsible.
- Paragraph 3.4.3 of Appendix CT-003-000 uses the term "reasonably practicable". This is too vague and needs to be changed, both in this paragraph and throughout the document, to embody the principle of "best industry practice". This practice must embody that at the actual time of the construction period and not be limited to the best practice that pertains today.
- Paragraph 3.4.5 of Appendix CT-003-000 leaves the ultimate environmental monitoring to the contractors/major contractors. This must not be the approach used to construct HS2. Genuine third party inspection of the construction project and all its environmental management must be built into the construction of HS2 and all contracts that are let to all levels of contractor.
- All relevant paragraphs in section 4 of Appendix CT-003-000 require the same approach as paragraph 3.4.5. In all cases independent third party inspectorate is required, working for the Nominated Undertaker, not the relevant contractor.
- Paragraph 5.2.1 to paragraph 5.2.10 inclusive of Appendix CT-003-000 draft out the working hours. These must be spelt out agreed in the LEMP. As currently drafted, the words could allow various combinations of circumstance to provide for virtually non stop working which would be unacceptable.

4 Given that the points that the Community have made above are accepted and incorporated into the final code of construction practice then there is one more overarching point that remains to ensure the success of the construction phase of HS2. That is:

All the words and principles in the Sustainability Policy (Annex 2 to Appendix CT-003-000) need to be fully incorporated into the relevant LEMP (Annex 3 to Appendix CT-003-000) for each locality. This must be arrived at by full consultation/agreement with all parties/stakeholders including, but not limited to, HS2 Ltd, local authorities and parish councils.