Claims under Part 1 of the Land Compensation Act 1973

Briefing Note for Stansted Airport Consultative Committee (‘STACC’)
MAG, July 2014.

1. Briefly, Part 1 of the Land Compensation Act 1973 (“the 1973 Act”) gives a right to compensation for any reduction in the value of a property caused by “physical factors” arising from alterations to “public works”. Physical factors include noise, vibration, smell, fumes, smoke, artificial lighting and the discharge of solid or liquid substances. Public works are generally road and rail schemes, but the definition does include works at airports – specifically the creation, extension, or alteration of runways or aircraft aprons.

2. Freehold or leasehold owners of properties can make a claim, once the public works have been in use for at least 12 months (the ‘first claim date’). A claim is based on any reduction in value of the property that can be shown to have been caused by physical factors arising from the use of the public works. In simple terms, the compensation is equal to any difference between the property’s value with the works in use, compared to the value without the works in use (at the same date). The first of these factors is ‘actual’ market value, while the other has to be calculated hypothetically. The ‘first claim date’ (see above) is the date that is used to assess compensation and so is the key date when it comes to property valuation. Changes in value since that date are rarely relevant.

3. As with other compensation systems, the onus lies on the claimant to make a claim, decide how to pursue it and to prove their case. This requires expert evidence on both the physical factors and property valuation. Claimants have to show what the physical factors are that affect the property; and then what impact these have on the property’s value. This evidence has to distinguish between any impact arising from the works themselves, and impacts arising from other causes. In the Stansted context, this would mean looking at Stansted operating with an apron extension compared to Stansted operating without the apron extension. Generally, claimants seek expert advice on both the law and these technical issues. It is a specialist and complex area.

4. A claim is lodged with the airport operator; who then, in essence, has to decide:
   a. Is it valid (there are various legal and technical criteria that have to be met)
   b. Is it justified and proven (see ‘3’ above) and if so, how to respond

5. If the parties can’t agree (either on matters of detail or principle), then the claimant has the right to refer the matter to the Lands Tribunal, a specialist Court who oversee such matters. It then becomes a matter of litigation; which can be complex, time consuming and costly. There are strict time limits on when such legal action can be taken (i.e. 7 years from the date the ‘public works’ were brought in to use). The Lands Tribunal then take responsibility for finally determining the issue. This will usually involve a series of legal processes (including mediation) but could result in a full hearing before the Tribunal with expert evidence and witnesses.

6. At Stansted, BAA paid out a number of ‘Part 1’ claims in the early 1990s. These arose from the major airfield and apron development that had taken place by that time. Since then, there has been further development at STN, including additional aircraft stands. The topic has cropped up quite regularly over recent years, initially with BAA and, since its acquisition of STN, with MAG. A number of local residents have now written formally to STN, seeking compensation. STN are in the process of carefully considering these requests and the next steps. And while the wider public interest in the topic is understandable; STN are equally conscious that individual’s personal, financial and property circumstances will vary greatly and are not appropriate for public debate.
7. This note is only a brief summary of what is a complex and very specialist subject. STN would strongly recommend that local residents who wish to pursue the matter, and believe they have evidence to support a claim, should seek specialist advice from an expert in the field. More details about the legal process can be found at http://www.justice.gov.uk/tribunals/lands.

A leaflet is also produced by the Lands Tribunal setting out how it operates.