

Public Inquiry into BAA's Proposal to Develop a Second Runway and Associated Facilities at Stansted Airport (Stansted G2)

Inspector's Report to the Secretary of State on Inquiry Timetable

1. Introduction

I write with my recommendations on the inquiry timetable as required by Rule 12(2) of the Town and Country Planning (Major Infrastructure Project Inquiry Procedure) (England) Rules 2005 'the MIPS Rules'.

As you will be aware, I was appointed to hold the inquiry (or, more correctly, a series of concurrent inquiries) into the Stansted G2 project in July 2008.¹ On 19 August 2008, the start date for the inquiry was set at 15 April 2009. On 10 November 2008, I held a pre-inquiry meeting (PIM). On 19 January 2009, I held a programming meeting. The programming meeting was attended by all the main parties to the inquiry. Its purpose was to discuss the programme for the forthcoming inquiry in order to inform this report.

2. Pre-Inquiry Meeting

At the PIM it was agreed that the inquiry would be topic based and conducted 'in the spirit of the MIPS Rules'.² It was further agreed that the detailed programme would be divided into programme blocks, each generally three or four weeks long, with one or more topics considered in each programme block.

The possibility of holding concurrent inquiry sessions was also explored at the PIM. Concurrent inquiry sessions were strongly resisted by most parties including the Councils³ and Stop Stansted Expansion (SSE). BAA were agreeable to the proposal in principle, but they acknowledged that there were complex inter-relationships between the topics and stated that they did not want the inquiry to be 'mired in legal problems'.

3. Programming Meeting

3.1 Running Order

At the meeting, the topic list was reviewed and some adjustments to the topics and running order made. The main alteration agreed was to take *Forecasting and Need* out of *The Proposals* and move it down the running order. This change reflected the DfT's recent revision of their *UK Air Passenger Demand Forecasts* and the need for BAA and the other parties to examine these forecasts before finalising their positions on the matter. I am satisfied that this alteration will assist the smooth running of the inquiry.

Consequential on this, *Economics, Air Safety and Airspace, Noise and Air Quality* were moved down the running order as the data underpinning the evidence on these topics derive in part from the high-level passenger forecasting data. *Surface Access* was similarly moved down the running order, in the light of (i) its dependence on the high-level passenger forecasts; and (ii) the desirability of awaiting the expected announcements on proposals to upgrade the West Anglia Main Line (WAML) and the M11 Motorway before finalising the evidence.

3.2 Time Estimates

At the programming meeting, the inquiry sitting time required for each topic was debated – see Annex A. The conclusion was that, for a linear programme without concurrency,

¹ For list of inquiries see Appendix 1.

² Whilst it was agreed that the inquiry would be conducted 'in the spirit of the MIPS Rules', each individual inquiry would in fact still be subject to the rules applicable to that inquiry. Applications and Orders not subject to the MIPS Rules would variously be subject to the Highways (Inquiries Procedure) Rules 1994, the Town and Country Planning (Inquiries Procedure) (England) Rules 2000, the Transport and Works Act (Inquiries Procedure) Rules 2004 and the Compulsory Purchase (Inquiries Procedure) Rules 2007.

³ Uttlesford District Council, Essex County Council, East Herts District Council and Hertfordshire County Council who will be presenting a joint case at the inquiry.

somewhere between 35 and 50 sitting weeks would be required (140 to 200 sitting days). For some topics the level of agreement between the parties was very good; but elsewhere there was a significant divergence of opinion between BAA and the other parties present, with the Councils and SSE generally expecting matters to take longer than BAA.⁴

Fitting the longer (50 week) time estimate to the calendar shows that, with one week breaks between topic blocks and longer breaks for the main summer holidays and at Easter and Christmas, the inquiry should conclude in October 2010 – see Annex B.

3.3 Concurrency

The plain intent of the MIPS Rules is to allow major infrastructure inquiries to be held in concurrent sessions by a number of inspectors. Accordingly, and notwithstanding the views expressed at the pre-inquiry meeting, the potential for holding concurrent inquiry sessions was fully explored at the programming meeting. This was done with a view to shortening the overall inquiry duration. The unanimous view of those present was that, for a range of reasons, it would not be sensible to proceed in this way – see Annex C. Having considered the matter further since that meeting, I agree.

My reasons for reaching this conclusion stem, firstly, from the constraints imposed on the inquiry timetable by the need to re-examine the forecasting data following the recent revision of the DfT Forecasts, which in turn means that topics such as *Economics*, *Noise* and *Surface Access* cannot be heard concurrently with topics such as *Nature Conservation*, *Landscape and Visual Impact* and *Cultural Heritage* which are necessarily programmed early in the inquiry timetable (see above). The second reason relates to the complexity of the inquiry, which will consider some 50 applications and Orders. Given this, my view is that a ‘topic based’ inquiry format is essential in the interests of efficiency and avoiding repetition.⁵ This was agreed at the PIM. Also, the various applications and Orders are subject to different inquiry procedure rules. Of these rules, only the MIPS rules make provision for concurrent inquiry sessions to be held by additional inspectors. The rules governing the proposed trunk road works, rail works, CPOs and CROs and the applications to destroy scheduled ancient monuments all contain no such provision.

Given these constraints, my view is that holding meaningful concurrent inquiry sessions would be very difficult, in practice, given the circumstances of this particular inquiry.

I accordingly recommend that, in this case, the option available to the Secretary of State to hold concurrent inquiry sessions into those applications subject to the MIPS rules should not be pursued.

3.4 Inquiry Start Date

At the programming meeting, SSE and the Stansted Airports Consultative Committee (SACC) both put a case for deferring the start date of the inquiry to September or thereabouts. Their reasons for making this application were, in summary:

- The announcements on Heathrow and the recent publication of revised air traffic forecasts both came later than was anticipated when the inquiry start date was set. Other announcements have yet to be made. The time available to take on board the implications of these announcements before the inquiry is due to start is limited.
- The High Court is now scheduled to begin hearing SSE’s challenge to the G1 decision on 23 February. The outcome of the challenge is expected to be known in early March. If successful, the implications for the G2 inquiry would be significant - the inquiry might be abandoned and, even if this were not the case, there could be significant implications for evidence on *Economics*, *Noise* and *Climate Change*.

⁴ e.g. For *Economics* the SSE forecast 5 weeks, as opposed to BAA’s forecast of 2 weeks: similarly for *CPOs* and *CROs* the Councils/SSE forecast 3 weeks as opposed to BAA who estimated one week only.

⁵ As opposed to a party-based inquiry (where each party presents their evidence in turn) or an application-based inquiry where each group of applications is considered in turn.

- The Competition Commission's final report on its BAA Airport Market Investigation is due to be published in March (or possibly earlier). If BAA are required to sell Stansted, then any future owner would be likely to want to pursue a different scheme to BAA's G2 proposal. This would render the inquiry pointless.

BAA resisted the application. The Councils indicated that they would be content to accept a postponement should the Secretary of State agree to the request.

As to the merits of the application, I take the view that, with the adjustments to the inquiry programme agreed at the programming meeting, there should be ample time to take account of the Heathrow announcement and DfT forecasts before evidence on the affected topics is due. Equally, any implications of the G1 challenge judgement will be known well in advance of the date on which proofs for *Economics, Noise and Climate Change* are required. I therefore see no reason to defer the start date on either of these counts. The WAML and M11 announcements are also expected 'shortly'. Accordingly, these should not affect the timetable for *Surface Access*, given its late positioning in the running order.

Notwithstanding this, should the G1 challenge succeed, this could have implications for the inquiry programme. In particular, the inquiry would need to consider two 'base case' scenarios (with and without G1). Inquiry time might also be necessary to consider any subsequent decision of a higher court. To my mind, these situations would be manageable. Given the uncertain outcome of the G1 challenge in any event, I currently see no reason to defer the inquiry start date on this account.

As to the Competition Commission, my understanding is that the Commission is alive to the potential impact that their decision could have on the inquiry process. I further understand that their recent report makes it clear that any remedy they may specify (including a sale of Stansted) would seek to avoid disturbing the inquiry programme. Given this, I see no reason to defer the inquiry start date on this account.

I therefore recommend that, on the information currently available to me, the inquiry start date should not be moved from the date of 15 April currently set.

4. Inquiry Timetable

Given my recommendations above, I take the view that the timetable for the inquiry should allow for a linear (non-concurrent) inquiry, starting on 15 April 2009 and concluding in October 2010.

Whilst there may be scope to bring the inquiry to a conclusion before October 2010, if matters currently in dispute are settled before they are scheduled to be heard, this cannot be guaranteed.⁶ Whilst BAA are hopeful in this regard, the SSE and the Councils both argue that an 18 month inquiry is realistic given the scale of the proposals. I do not disagree. Accordingly, **I recommend that the timetable set by the Secretary of State should be for an end date of late October 2010.**

In making this recommendation, it should be appreciated that the date specified does not allow for the impact that any material changes in circumstances during the inquiry might have on the programme.

Andrew M Phillipson
Inspector
29 January 2009.

⁶ Should agreements outside the inquiry result in 'gaps' opening up in the programme, I am satisfied that these could be put to good use by, for example, advancing sessions where conditions are discussed, advancing sessions at which the public will present their cases; or by advancing reporting in order to reduce the time required to complete the report after the inquiry closes. The use of interim closing submissions should also help to reduce reporting time.

Estimates of Inquiry Sitting Time Required for each Topic

<i>Topic</i>	<i>Time estimate</i>
Opening statements	1 – 2 days
Policy Context	1-2 weeks
Proposals (including Alternatives)	5 weeks
Landscape and Visual Impact	1-2 weeks
Nature Conservation	1-2 weeks
Cultural Heritage (including historic landscape)	2-3 weeks
Agriculture, Water Supply and Drainage, Energy and Waste	1-2 weeks
Forecasting and Need	1½-3 weeks
Economics (including Employment)	2-5 weeks
Air Safety and Airspace	1 week
Noise	2 -2½ weeks
Air Quality	1½ weeks
Surface Access	5-6 weeks
Local Roads and Rights of Way	1 week
Health and Community	2 weeks
Sustainability (including Climate Change)	1-2 weeks
CPOs and CROs	1-3 weeks
Conditions/obligations	1-2 weeks
Part 2 participants and members of the public	2-3 weeks
Closing statements	2 weeks
Total	Circa 35–50 weeks

Extract from Programming Meeting Note – Concurrent Sessions

Possibilities for concurrent sessions considered included:

Whether sessions dealing with 'physical' impacts of the proposals (e.g. *Landscape and Visual* and *Nature Conservation*) could be held concurrently with those dealing with 'operational' matters (e.g. *Noise and Air Quality*). This was discounted as the physical (land based) topics are now all programmed in the early part of the inquiry; but operational effects generally depend on (and therefore follow) *Forecasting and Need* (which it had been agreed should be deferred to later in the inquiry programme - see above). Accordingly, there is no prospect of holding these sessions concurrently (assuming that the start date of the inquiry is not deferred).

Whether *Surface Access* could be concurrent with another topic. This was resisted as impractical as the data underpinning the traffic and other forecasts depend on the high level forecasting data (see above) and announcements on the M11 and WAML which had yet to be made. The topic therefore necessarily has to be programmed towards the end of the inquiry. Running it concurrently with one of the later operational topics would not be practical given (i) its importance and the widespread interest in the topic, and (ii) the overlap with material to be considered under other topics (e.g. *Noise and Air Quality*).

Whether *Cultural Heritage* could be run concurrently with another topic. This was rejected as, having regard to the agreed running order, a significant benefit would only accrue if *Cultural Heritage* were paired with one of the physical topics to be considered before the summer break. However, overlaps between the topics would preclude this (e.g. overlaps between historic landscape (in *Cultural Heritage*) and the more general landscape considerations (in *Landscape and Visual*) and ancient trees and woodland (in *Nature Conservation*).

Whether *CPOs and CROs* could be considered concurrently with another topic. Whilst in theory it was agreed that this would be possible, any time advantage gained thereby would be very modest, particularly if, as BAA anticipated, many outstanding objections to the CPOs and CROs were settled and withdrawn in advance of the inquiry hearing the topic. Care would also have to be taken if *CPOs* were considered concurrently to ensure that objectors to CPOs that were calling evidence on other matters (e.g. L&G – see above) were not precluded from doing so by clashes in the programme.

The outcome of the discussion was that there were no positive suggestions from any party as to feasibly running topics concurrently. The Councils felt that, for a development project of the size and complexity of G2, 18 months was a perfectly reasonable inquiry duration. SSE believed that efficiency was not the same thing as speed.

List of Applications, Schemes and Orders to be considered at the Inquiry

Planning Applications

Uttlesford Ref No:	Description	Full/Outline
UTT/0400/08/FUL	Airport (Full): The provision of a runway, associated facilities and operational development, in connection with the construction and operation of the expanded airport (including airport buildings, together with ancillary infrastructure and associated operational development) details as schedule	Full
UTT/0401/08/OP	Airport (Outline): Outline application for the provision of airport buildings, together with ancillary infrastructure and associated operational development, in connection with the construction and operation of the expanded airport (including second runway and its associated facilities) details as schedule	Outline
UTT/0403/08/FUL	Airport (Off-setting) Change of use from use as agricultural land to use for nature conservation and / or landscaping, and engineering operations associated therewith, which comprise offsetting proposals associated with the G2 Airport Project.	Full
UTT/0402/08/FUL	Airport (Local Roads) Construction of highways with associated landscaping and ancillary works associated with the G2 Airport Project.	Full
UTT/0525/08/OP	Barn 1: Construction of barn and associated works – Land adj southern edge of Eastend Wood, Chapel Hill	Outline
UTT/0526/08/OP	Barn 2: Construction of barn and associated works - Land adj southern edge of Eastend Wood, Chapel Hill	Outline
UTT/0527/08/OP	Barn 3: Construction of barn and associated works Land adj south-eastern edge of Eastend Wood, Chapel Hill	Outline
UTT/0528/08/OP	Barn 4: Construction of barn and associated works Land adj south-eastern edge of Eastend Wood, Chapel Hill	Outline
UTT/0529/08/OP	Barn 5: Construction of barn and associated works – Land to the south-east of Swan Farm, Molehill Green, Takeley	Outline
UTT/0530/08/OP	Barn 6: Construction of barn and associated works - works – Land to the south-east of Swan Farm, Molehill Green, Takeley	Outline
UTT/0531/08/OP	Barn 7: Construction of barn and associated works – Land adjacent to the eastern edge of Philipland Wood, Molehill Green, Broxted.	Outline
UTT/0513/08/OP	Reconstruction of the (formerly listed) building known as Three Horseshoes PH and associated works	Outline
UTT/0514/08/OP	Reconstruction of the (formerly listed) building known as Nine Bay Barn at Waltham Hall and associated works	Outline
UTT/0515/08/OP	Reconstruction of the (formerly listed) building known as Barn to west of Waltham Hall and associated works	Outline
UTT/0516/08/OP	Reconstruction of the (formerly listed) building known as Granary at Waltham Hall and associated works	Outline
UTT/0517/08/OP	Reconstruction of the (formerly listed) building known as Little Grange and associated works	Outline
UTT/0518/08/OP	Reconstruction of the (formerly listed) building known as The Grange and associated works	Outline
UTT/0519/08/OP	Reconstruction of the (formerly listed) building known as	Outline

	Granary to east of The Grange and associated works	
UTT/0520/08/OP	Reconstruction of the (formerly listed) building known as Three Bay Cart Lodge to east of The Grange and associated works	Outline
UTT/0521/08/OP	Reconstruction of the (formerly listed) building known as Cart Lodge at Waltham Hall and associated works	Outline
UTT/0522/08/OP	Reconstruction of the (formerly listed) building known as Barn immediately north east of cart lodge at Waltham Hall and associated works	Outline
UTT/0622/08/FUL	The provision of an aviation fuel pipeline together with compound facility and associated works.	Full
UTT/0621/08/FUL	The provision of surface water drainage pipes and associated works	Full
UTT/0524/08/FUL	Change of use from agricultural land to use as a common land	Full
UTT/0523/08/FUL	Change of use from agricultural land to use as a village green	Full

Applications to Demolish Listed Buildings

Uttlesford Ref No:	Description
UTT/0500/08/LB	Demolition of the Grade II listed building known as Carters Farm (reference TL52SE9/3) and associated works.
UTT/0501/08/LB	Demolition of the Grade II listed building known as Yew Tree Cottage (reference TL52SE9/2) and associated works.
UTT/0502/08/LB	Demolition of the Grade II listed building known Three Horseshoes PH (reference TL52SE9/1) and associated works
UTT/0503/08/LB	Demolition of the Grade II listed building known as Waltham Hall (reference TL52SE9/12) and associated works
UTT/0504/08/LB	Demolition of the Grade II listed building known as Cart Lodge at Waltham Hall (reference TL52SE9/15) and associated works
UTT/0505/08/LB	Demolition of the Grade II listed building known as Nine bay barn at Waltham Hall (reference TL52SE9/17) and associated works
UTT/0506/08/LB	Demolition of the Grade II listed building known as Barn immediately north east of cart lodge at Waltham Hall (reference TL52SE9/14) and associated works
UTT/0507/08/LB	Demolition of the Grade II listed building known as Barn to west of Waltham Hall (reference TL52SE9/13) and associated works
UTT/0508/08/LB	Demolition of the Grade II listed building known as Granary at Waltham Hall (reference TL52SE9/16) and associated works
UTT/0509/08/LB	Demolition of the Grade II listed building known as Little Grange (reference TL52SE9/18) and associated works
UTT/0510/08/LB	Demolition of the Grade II listed building known as The Grange (reference TL52SE9/19) and associated works
UTT/0511/08/LB	Demolition of the Grade II listed building known as Granary to east of The Grange (reference TL52SE9/20) and associated works
UTT/0512/08/LB	Demolition of the Grade II listed building known as Three Bay Cart Lodge to east of The Grange (reference TL52SE9/21) and associated works

Applications for Scheduled Monument Consent

Ref No:	Site
HSD9/2/10277	Waltham Hall, Takeley, Uttlesford, Essex (Ref: EX 143)
HSD9/2/10279	The Grange Moated Site and Fishpond, Takeley, Uttlesford, Essex (Ref 20719)

Orders relating to the Proposed Rail Works

Title of Order
Stansted Rail Improvement Order

Orders relating to the Proposed M11 and A120 Junctions (including related CPOs)

Title of Order
The A120 Trunk Road (Replacement Trinity Junction Airport Access) Order 20
The A120 Trunk Road (Replacement Trinity Junction Airport Access Side Roads) Order 20
The A120 Trunk Road (Replacement Trinity Junction Airport Access) Compulsory Purchase Order (No.) 20
The M11 Motorway (Junction 8b and Airport Access) Connecting Roads Scheme 20
The M11 Motorway (Junction 8b and Airport Access Side Roads) Order 20
The M11 Motorway (Junction 8b and Airport Access) Compulsory Purchase Order (No.) 20
The A120 Trunk Road (M11 Junction 8b and Airport Access) Order 20
The A120 Trunk Road (M11 Junction 8b and Airport Access) Compulsory Purchase Order (No.) 20

Compulsory Purchase Orders

Title of Order
Stansted Airport Limited (land at and in the vicinity of Stansted Airport – second runway) Compulsory Purchase Order 2008
Stansted Airport Limited (land at and in the vicinity of Stansted Airport – offsetting measures in connection with second runway) Compulsory Purchase Order 2008

Order relating to Section 44 (1) Fuel Pipeline Order (Compulsory Rights Order)

Title of Order
Stansted Airport Second Runway: Application by Stansted Airport Limited (“STAL”) for an Order under section 44 of the Civil Aviation Act 1982 (No 1)

Order relating to Section 19 Exchange Land Certificate

The Stansted Airport Limited (Land at and in the Vicinity of Stansted Airport – Second Runway) Compulsory Purchase Order 2008 Application for a certificate under section 19(1)(a) Acquisition of Land Act 1981 – compulsory purchase of land forming part of a common
