

APPEAL REF: APP/ C1570/W/20/3256619

SITE ADDRESS: LONDON STANSTED AIRPORT, STANSTED, ESSEX

CASE MANAGEMENT CONFERENCE SUMMARY NOTE

1. The Panel of Inspectors appointed to conduct the Inquiry comprises Michael Boniface MSc MRTPI, Gareth Jones BSc (Hons) DipTP DMS MRTPI and Nick Palmer BA (Hons) BPI MRTPI. The Inquiry will open at 10.00am on Tuesday 12 January 2021, sitting for up to 40 days. A detailed programme of sitting days will be devised in due course and an early indication of likely timings for various witnesses would be useful.
2. For the time being, the appeal remains transferred for determination by the Panel. The parties will be informed if the relevant Secretary of State subsequently recovers the appeal for his own determination.
3. The Panel has had regard to the request from SSE and the appellant to postpone the inquiry beyond the winter months given the potential impacts of the current Pandemic. The impacts and duration of the Pandemic cannot be anticipated and it cannot be assumed that the situation will have improved by Spring. PINS has a duty to progress appeals efficiently and expeditiously and has worked hard to establish effective virtual and blended event options that allow appeals to proceed while minimising health risks and complying with Government guidelines. No exceptional circumstances have been identified that would prevent the appeal from proceeding in accordance with the existing timetable.
4. The Council may wish to draw the attention of interested parties to this Note. At the very least, it is recommended that a copy be posted on the Council's website.

Programme Officers

5. The Council has appointed two Programme Officers, Yvonne Parker and Helen Wilson. They are independent from all parties and will be responsible to the Inspectors. They have been appointed to assist with the organisation and smooth running of the Inquiry and will be the first point of contact for people with queries about procedure, timetabling and general organisation at the event. All correspondence relating to the appeal should now be sent to the Programme Officers (info@programmeofficers.co.uk), copying the PINS Case Officer (elizabeth.humphrey@planninginspectorate.gov.uk).

Main Issues

6. Having had regard to the submissions to date and discussions during the Case Management Conference, the main issues are:
 - 1) The effect of the development on aircraft noise;
 - 2) The effect of the development on air quality;

- 3) whether the development would conflict with UK obligations to combat climate change;
- 4) whether the development would be supported by necessary infrastructure.
7. Evidence will also cover the topics of air traffic forecasts and projections; socio-economic impacts and health matters though it was considered that these are sub-issues within the main issues identified above.
8. Matters raised by interested parties will also need to be addressed. Whether or not these are dealt with as main issues in the eventual decision will depend on the evidence heard in due course. It may also be the case that some of these issues could be dealt with through written submissions.

Format of the Inquiry

9. During the pandemic, PINS is progressing most casework by virtual means (using Microsoft Teams), as opposed to conventional physical events. The Panel will have regard to the position statements of the parties submitted before the CMC and to the discussions during the CMC. There is no consensus between the parties as to the most appropriate format.
10. The Panel will consider the matters raised and advise which format will be adopted in a separate note.

Dealing with the evidence

11. The Panel is minded that all the main issues be dealt with in the conventional format for Inquiries, by evidence in chief from the relevant witness for each side, which will then be cross-examined. A topic-based approach will be adopted for the main issues so that the parties' respective evidence on particular issues can be heard consecutively.
12. Other matters raised by interested parties will be addressed by the appellant and Council in the proofs of their respective planning witnesses and at the Inquiry itself as necessary.
13. To maintain focus on those areas where there is not agreement, a Position Statement on the main issues will be required, setting out in a tabular format, the key facts in dispute. These should accompany topic specific statements of common ground relating to the main issues.
14. SSE (and any other Rule 6 parties) should be invited to be party to the agreements or separate SoCG's could be produced.

Conditions

15. An agreed schedule of suggested planning conditions and the reasons for them, including references to any policy support, should be submitted with the general Statement of Common Ground. Careful attention must be paid to the wording, and the conditions will need to be properly justified having regard to the tests for conditions, in particular the test of necessity. Any differences in views on the suggested conditions, including suggested wording, should be highlighted in the schedule with a brief explanation given.

16. Any pre-commencement conditions will need the written agreement of the appellant and this should be expressly given in the SoCG.

Planning Obligations

17. A final draft of the planning obligations should be submitted two weeks before the Inquiry opens, accompanied by the relevant office copy entries and a CIL Compliance Statement prepared by the Council. The statement must contain a fully detailed justification for each obligation sought with reference to the CIL Regulations. The methodology for calculating any financial contributions should be included, along with details for how the money would be spent.

18. A signed and completed version of the S106 agreement should be submitted before the close of the Inquiry.

Core Documents/Inquiry Documents

19. A list of core documents should be agreed in advance of preparing your proofs so they can be properly referenced. The agreed list must be submitted with the proofs of evidence. Core Documents can be provided in electronic form only. They should be submitted to the Programme Officers (copying the PINS Case Officer), who will coordinate their organisation and referencing on a website for easy access by all parties throughout the appeal.

20. Any documents submitted once the Inquiry has opened will be recorded as an Inquiry Document on a separate list, overseen by the Inspectors and administered by the Programme Officers.

21. Three hard copies of Proofs (and summary proofs where more than 1500 words) and the Environmental Statement are needed for the Inspectors. These should be sent to the Programme Officers. The parties should make arrangements to exchange Proofs with each other, in consultation with the Programme Officers.

Inquiry Running Order/Programme

18. The Inquiry will open at 10.00 on 12 January 2021 though may start slightly earlier on subsequent days. We will aim to finish each day no later than 17.00, take a lunch break around 13.00, with mid-morning and afternoon breaks at suitable points in the proceedings. During virtual elements of the Inquiry, we will aim to sit for around 90 minutes at a time and will seek the parties' assistance in facilitating this.

19. The Inquiry is likely to open using a virtual format. After the Panels opening comments, opening statements from the main parties will be invited. After that, it is likely that the Inquiry will adjourn to allow for an accompanied site visit. We will then hear from interested parties who wish to speak, although there is scope for some flexibility if someone has difficulties that prevent them from speaking in the first few days.

20. A topic-based approach to hearing the evidence will be adopted. This will start with the formal presentation of evidence on noise matters – Council first, followed by Rule 6 and then the Appellant. We will work our way through the main issues, subsequently dealing with air quality, climate

change implications and infrastructure matters. It is understood that other topics will inform these broad categories, including air traffic forecasts and projections, socio-economic impacts and health matters. The ultimate order of witnesses will be determined after a review of the evidence, in consultation with the parties.

21. After hearing from all other witnesses, we will hear from each party's planning witness, who should consider the benefits of the scheme, outstanding matters raised by third parties and the overall planning balance.
22. On conclusion of that, the Inspectors will lead round table sessions on conditions and planning obligations.
23. That will be followed by closing submissions which should last no longer than 2 hours for each party. They should set out each parties' respective cases as they stand at the end of the Inquiry, with an electronic copy having been provided in advance, appropriately cross-referenced where evidence is relied on, for the avoidance of doubt.
24. The Inspectors will carry out a further accompanied site visit, which is likely to take place shortly after the Inquiry has closed. Its purpose is simply for the Inspectors to see the site and its surroundings. They cannot listen to any representations/discussion/arguments during the visit, but parties can point out physical features. A suitable route and itinerary should be agreed between parties for the visit.
25. An Inquiry programme will be circulated following receipt of your time estimates for each witness in due course, which may alter the duration of the inquiry. However, all parties should maintain their availability for the expected 40 days of sitting, noting that Monday's will not generally be a sitting day. Other than in exceptional circumstances, you are expected to take no longer than the timings indicated, which will require the co-operation of both advocates and witnesses.

Timings

26. The appellant is currently updating the Environmental Statement (ES) given the passage of time and having regard to concerns raised by the Council. The ES addendum must be submitted by **16 October 2020**. It is expected that the Council will consult upon the Addendum promptly after receipt.
27. The general SoCG is due by **28 October 2020**.
28. Given the proximity of the Inquiry to the Christmas break, Proofs (electronic and hard copies) will need to be submitted 5 weeks before opening, by **8 December 2020**.
29. More detailed topic specific statements of common ground and position statements dealing with the main issues should inform your proofs and are to be submitted at the same time (**8 December 2020**).
30. Final timings for openings and closings, evidence in chief and cross examination must be provided by **22 December 2020**.

31. The final draft S106 agreement is to be submitted no later than **29 December 2020** to be accompanied by the CIL Compliance Statement prepared by the Council and the relevant office copy entries.
32. Copies of notification letters to interested parties of the Inquiry arrangements should be provided to the Inspectors by **29 December 2020**.
33. There is no reference in the Rules or the Procedural Guide to supplementary or rebuttal proofs and PINS does not encourage the provision of such. However, where they are necessary to save Inquiry time, copies should be provided no later than **5 January 2021**. It is important that any rebuttal proofs do not introduce new issues. Before considering the use of rebuttals, the parties will be expected to explore whether the matters in question can be addressed via an agreed addendum to the Statement(s) of Common Ground.

Timetable for the submission of documents:

16 October 2020	Deadline for submission of: <ul style="list-style-type: none"> • Updated Environmental Statement
28 October 2020	Deadline for submission of: <ul style="list-style-type: none"> • General SoCG, including draft conditions
8 December 2020	Deadline for submission of: <ul style="list-style-type: none"> • all proofs • core documents list (and hard copies) • topic specific statements of common ground/position statements
22 December 2020	Deadline for submission of: <ul style="list-style-type: none"> • final timings
29 December 2020	Deadline for submission of: <ul style="list-style-type: none"> • final draft planning obligation and relevant office copy entries • CIL Compliance Statement (Council) • Inquiry notification letters
5 January 2021	Deadline for submission of: <ul style="list-style-type: none"> • any necessary rebuttal proofs
12 January 2021	Inquiry opens 10.00am

Costs

34. No application for costs is currently anticipated by any party. If an application is to be made, the Planning Practice Guidance makes it clear that they should be made in writing to the Inspector before the Inquiry or as soon as reasonably possible. You are also reminded that in order to support an effective and timely planning system in which all parties are required to behave reasonably, the Inspector has the power to initiate an award of costs in line with the Planning Practice Guidance. Unreasonable behaviour may include not complying with the prescribed timetables.

Other Matters

35. During the CMC, it was asked that the appellant make arrangements for an accompanied pre-inquiry site visit to familiarise the Panel with the proposal and the site. Having subsequently had regard to caselaw (Anderson v SSCLG [2015] EWHC 3005 (Admin)), which establishes that accompanied pre-inquiry site visits do not fall within the scope of the Inquiry Procedure Rules, that visit will now take place shortly after the Inquiry opens.
36. The advocates for the Council and appellant are asked to provide a note to the Inspectors explaining the relationship between the appeal scheme (a full planning application) and the previous planning permission on site, with its attendant restrictions imposed through conditions and planning obligations e.g. restrictions on aircraft movements. This is to be provided by 8 October 2020.

Michael Boniface, Gareth Jones & Nick Palmer

INSPECTORS

2 October 2020