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STANSTED AIRPORT GI PUBLIC INQUIRY

held at  
Endeavour House  
Stansted Airport  
Essex

on Friday, 15th June 2007  
commencing at 10.00 am

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A P P E A R A N C E S

The Inspectors:

Mr Terry Phillimore  
Mr Alan Boyland

For BAA:

Mr Michael Humphries, QC

For Stansted Airlines Consultative Committee:

Mr David Holgate [not present]

For National Trust:

Mr D Smith

For Uttlesford District Council, Essex County Council and Hertfordshire County Council:

Mr Tom Hill  
Ms Lisa Busch

For Stop Stansted Expansion:

Mr Paul Stinchcombe  
Ms Sarah Hannett

For Saffron Walden District Friends of the Earth:

Ms Pat Elliott

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Friday, 15th June 2007

(10.00 am)

Discussion of housekeeping matters

MR PHILLIMORE: Good morning. Can we resume, please?

I draw everyone's attention to mobile phones and also the attendance list, please.

Housekeeping matters, first of all.

MR BOYLAND: Just one thing to say. Mr Stinchcombe is not here at the moment. He has had car problems this morning. I know this because I passed him and Miss Hannett along the side of the road.

MR HUMPHRIES: How uncharitable not to pick him you up, sir!

MR BOYLAND: I did give Miss Hannett a lift to the Inquiry rather than abandon her on the roadside. I trust no-one will take issue with that.

MR PHILLIMORE: Anything else to raise under the heading of housekeeping?

MR HUMPHRIES: Sir, the only thing that we might mention, but it may be that you would prefer not to have a discussion about it at this moment, is simply the programme.

Sir, having discussed the programme with various other advocates yesterday evening, we took the view that it was unlikely we would get to Mr Charles this afternoon and therefore, sir -- I hope this is

1 acceptable to you -- I took the executive decision to  
2 tell him he need not stay. I hope that's acceptable.

3 So that does, however, leave the programme for next  
4 week, and Mr Osborn has been kind enough to show me this  
5 morning the latest programme, which I believe has been  
6 circulated. Sir, that shows Mr Charles appearing on  
7 Tuesday and continuing into Wednesday, which I would  
8 suggest, sir, is reasonable, and Mr Maiden then  
9 following on on the Wednesday and Thursday. Sir, again  
10 we would anticipate that being reasonable.

11 That satisfies two criteria: one, Mr Maiden cannot  
12 be here on Tuesday, so that works; the second thing  
13 being that Mr Holgate cannot be here on the Friday. So  
14 again programming Mr Maiden for the Wednesday and  
15 Thursday seems to satisfy all the parties.

16 That does, however, leave -- and I know Mr Osborn is  
17 aware of this issue, but obviously he has to programme  
18 within the constraints he has at the moment -- Friday  
19 for both Mr Pratt and Mr Squire. Whereas I think it is  
20 fully anticipated that Mr Squire both in chief and  
21 cross-examination would be very brief -- there is no  
22 water reason for refusal any more, but clearly there  
23 will be some questions I believe from SSE and others may  
24 have a few -- I think it is perfectly plausible that we  
25 would get through Mr Squire with ease on Friday, 22nd,

1 but Mr Pratt, sir, is altogether a different matter,  
2 because there both the Council and I suspect SSE and, of  
3 course, the National Trust have what I imagine will be  
4 substantial cross-examination, and, therefore, the view  
5 I think is properly taken that we would not complete  
6 Mr Pratt on that Friday.

7 Now, sir, I have, faced with that programming  
8 dilemma, just two points I would want to make. I think  
9 point one would be I am extremely reluctant to have our  
10 case fragmented in the sense that other people's cases  
11 come along and are heard and determined and  
12 cross-examined and then some of our witnesses are heard  
13 at later stages in the Inquiry. We would like, if  
14 reasonably possible, our case to be a coherent whole.

15 The second point is whilst I think one might accept  
16 splitting a witness if it fell over the course of  
17 a week-end, I think in this case, because we have this  
18 long adjournment and don't come back until Thursday, 5th  
19 July, I am, I hope you understand, very reluctant for  
20 the witness to be broken over that period of time.

21 Therefore, what I have suggested, not for resolution  
22 now, but I just raise, is that if by Thursday it looks  
23 pretty clear that the programme is otherwise on target  
24 and we are going to be finishing Mr Maiden, and if at  
25 that point it is pretty clear we could not get through

1 Mr Pratt in the remaining time that week, that Mr Pratt  
2 is taken out of the programme and put into the next  
3 available sitting date. I am more than happy that  
4 Mr~Squire is heard.

5 I am not sure you would want to resolve this now,  
6 but I think it is worth raising that. I anticipate,  
7 having spoken to others, that Mr Pratt would be some two  
8 days to complete from evidence-in-chief through to  
9 re-examination and your questions.

10 MR PHILLIMORE: As far as Mr Squire is concerned, our  
11 understanding was that he would be called if there were  
12 questions. We had not been made aware that there were  
13 to be questions, but obviously something has been  
14 relayed to you on that which is information we don't  
15 have. You think it is now likely he will be called?

16 MR HUMPHRIES: Sir, we don't need to call him. I am simply  
17 I suppose being cautious in case others want him.  
18 I~don't know whether Miss Hannett can --

19 MS HANNETT: Sir, we do anticipate having one or two matters  
20 for Mr Squire. I don't imagine it is going to take more  
21 than about half an hour and that's probably a generous  
22 over-estimate, but certainly at the moment we do have  
23 a couple of matters we would like to put to him.

24 MR PHILLIMORE: I entirely understand about Mr Pratt. It is  
25 undesirable to split his evidence over two days when

1           there is a long gap in between. That's entirely  
2           understandable.

3           Mr Hill, do you want to make any comments at this  
4           stage? I think we don't want to have a long discussion  
5           at this point, but if there are any initial observations  
6           ...

7   MR HILL: I quite understand. I don't want to get into the  
8           details of the programme on the floor of the Inquiry.  
9           I have heard all my learned friend has said. Much of  
10          that has been discussed with me out of the Inquiry, for  
11          which I am very grateful. I think it seems an entirely  
12          sensible course.

13   MR PHILLIMORE: The slot that seems to be available is 10th  
14          and 11th July. Is that what you were looking at,  
15          Mr Humphries, for Mr Pratt?

16   MR HUMPHRIES: Sir, that is a possibility. The problem is  
17          the case would be split by the ACC's case. Therefore  
18          can I just raise at this point the possibility that we  
19          contact them and see if they would have any problem  
20          moving from the 5th and 6th July to 10th and 11th July  
21          so that both Mr Pratt and I would hope Dr Findell could  
22          be programmed into the two earlier dates?

23   MR PHILLIMORE: I think there is probably enough grace there  
24          for discussion outside the Inquiry. If that could be  
25          taken up in conjunction with the programming officer.

1 I think there is enough material for that to be taken  
2 forward. I think in principle the discussions are  
3 sensible. Thank you very much for that.

4 Anything else of a housekeeping nature?

5 MR HILL: Not from me, sir.

6 MR PHILLIMORE: Thank you. Mr Smith?

7 MR JOHN RHODES (cont.)

8 Cross-examination by MR SMITH (cont.)

9 MR SMITH: Thank you, sir.

10 Mr~Rhodes, good morning.

11 A. Good morning.

12 Q. To remind ourselves, we looked at some parts of the  
13 archaeology and cultural heritage volume of the  
14 environment statement, volume 4, which we know as CD/7.  
15 We were grappling with parts of the appendices to that  
16 document, where we have unfortunately appendices within  
17 appendices. Where we had got to was page 7 of  
18 appendix -- no, it is not. Where had we got to? My  
19 note tells me I need appendix A1, page 7.

20 MR PHILLIMORE: Mr Smith, can you remind us which document  
21 we are in?

22 MR SMITH: Archaeology and cultural volume of the  
23 environment statement, which is volume 4, which we know  
24 as CD/7. For the note, this is appendix A1, which is  
25 called "Volume 1 Report". Mercifully it does have

1 page numbers. Page 7 is where we had got to yesterday,  
2 where at paragraph or section 2.4 the subtitle tells us  
3 that we are addressing BAA context and policy.

4 A. Yes.

5 Q. Have you found that, Mr~Rhodes? I am obliged. We noted  
6 at 2.4.1 that BAA has a policy. We can just look next  
7 at 2.4.2. Perhaps I should read it for future  
8 cross-reference:

9 "The principal risk arises where unforeseen  
10 archaeological finds are made late in the planning or  
11 construction stage. Additional unexpected costs may be  
12 incurred in order to mitigate the archaeological impact  
13 through excavation or engineering redesign. Associated  
14 with these is the potential for unplanned delays to  
15 development programmes, which may prove even more  
16 detrimental to the successful outcome of the project.  
17 This audit aims to mitigate this risk."

18 So again the focus is very much on risk to BAA of  
19 archaeological influences?

20 A. Within that policy document, yes, although you note it  
21 also includes a commitment to the public interest.

22 Q. Yes. We saw that, the public relations element. That  
23 is how it is described, is it not?

24 A. I don't recall it being described as public relations;  
25 the wider public benefit as well as public relations in

1 paragraph 2.4.1, and the public interest commitment is  
2 set out in the policy document on page 70 of this  
3 volume. The policy document describes the policy as:

4 "To ensure a consistent approach to mitigate impact  
5 on the cultural heritage ..."

6 Q. "... based on achieving best value in terms of cost  
7 effectiveness and wider public benefit."

8 A. Yes.

9 Q. But again it is from the point of view of risk to BAA of  
10 coming across archaeological finds within BAA's land  
11 ownership?

12 A. That is clearly an important part of the policy, but not  
13 the only part of the policy.

14 Q. We can make submissions on what it says at a later  
15 stage.

16 We know, don't we, from figure 8 that we looked at  
17 earlier that the focus of the whole document is on  
18 STAL's land ownership?

19 A. That's a focus of the document, but we know the document  
20 itself examines not only the airport boundary but  
21 an area within 1 kilometre of it.

22 Q. We can look at some of that a little later. We need to  
23 be careful which document we are referring to, because  
24 we have these appendices within appendices, haven't we?

25 A. Yes.

1 Q. If we go to appendix A1 at page 9, we can see the broad  
2 scope of this appendix one hopes fairly quickly by  
3 looking at some of the headings:

4 "Section 4. Archaeological potential of STAL and  
5 statutory protection.

6 "4.1.1. The archaeological potential for the STAL  
7 land holdings."

8 Again there the emphasis is, is it not, STAL land  
9 holdings?

10 A. Yes. It is not a surprising emphasis, given the  
11 physical development proposed in the application is, of  
12 course, contained within STAL's land holdings. That is  
13 where the direct impact on Archaeology is likely to  
14 arise.

15 Q. For Archaeology, and, as we shall see later, the extent  
16 to which cultural heritage is addressed. We just need  
17 to see the focus of these documents for the overall  
18 emphasis, if you please.

19 The same message is at 4.2.1, is it not, for  
20 historical hedges, woods and boundaries: again within  
21 the STAL land holdings, 4.2.1?

22 A. Yes, those being the features that might be directly  
23 affected by the development.

24 Q. Same thing for listed buildings and statutory protection  
25 at 4.3.1: within the STAL land holdings?

1 A. Within this appendix, that is correct, yes.

2 Q. The same thing section 5, "Likely survival and nature of  
3 archaeological deposits": the STAL land holdings is the  
4 focus in 5.1.1?

5 A. It is.

6 Q. At page 12 of this appendix 1 we have a heading to  
7 section 6, "Risk assessment and the development  
8 process", which introduces 6.2.1. Perhaps I should read  
9 that:

10 R"From the mapping described in the last sections it  
11 is possible to work out the risk of encountering  
12 archaeological remains during future ground disturbance.  
13 A map has been compiled which shows the grading of risk  
14 (Figure 8)."

15 We looked at that a moment ago:

16 "This is not an archaeological survivals map. It is  
17 an assessment of the risk posed to BAA by the known or  
18 potential archaeological resource."

19 Again emphasising it is risk, one, to BAA and,  
20 secondly, of Archaeology within STAL's land holding?

21 A. That is correct in both cases, although a risk to BAA of  
22 encountering Archaeology through physical development  
23 reveals the risk to the Archaeology. It is the same  
24 event.

25 Q. Not at all. We remember that this document is part of

1 the basis of the assessment of the whole archaeological  
2 and cultural heritage volume of the environment  
3 statement?

4 A. Yes.

5 Q. We have seen so far that it is addressing and addressing  
6 only, one, Archaeology in the stricter sense and,  
7 secondly, within STAL's land holding?

8 A. Well, the appendix you have taken me to does that, but  
9 you know that the volume itself concerns itself with  
10 an area extending beyond the airport boundary for  
11 1~kilometre in any direction. We could go to other  
12 references in the document which demonstrate that.

13 Q. It is only when we come to annex 2 that that is  
14 addressed, is it not?

15 A. Well, it is actually addressed in the main body of the  
16 text of the previous chapter.

17 Q. We will see how it works out. If we move to appendix  
18 A2, which has the heading "Strategic cultural heritage  
19 audit", could you find page 3 there, please, with me,  
20 where the section head is "Sources used"? Are we in the  
21 same place?

22 A. Yes.

23 Q. Paragraph 1.1.1 tells us that:

24 "The archaeological study area looked at for the  
25 Stansted heritage audit contains the STAL land holding

1 and a 1 kilometre area surrounding it."

2 We are referred to a figure. We will look at some  
3 in a moment:

4 "The wider area was examined in order to set the  
5 archaeological information from the STAL holdings within  
6 its context."

7 A. Yes.

8 Q. So we see that that is the purpose of looking for the  
9 wider area: to set the physical Archaeology within  
10 STAL's land holding within its, that is to say the  
11 Archaeology of STAL's land holding, context?

12 A. Yes. It is only another way of saying the airport  
13 within its context, which is an entirely proper  
14 approach.

15 Q. We will see what it means and make submissions as to  
16 what it means, but for the moment we can see it is  
17 entirely introspective, is it not? This is the  
18 Archaeology that has been or may come to be found within  
19 STAL's land holding, and we are looking at a wider area  
20 to see how it, BAA's Archaeology, is seen in the context  
21 of the airport?

22 A. Yes, and that is an entirely proper approach,  
23 particularly because it is only the Archaeology within  
24 the airport which is to be physically affected by the  
25 development.

1 Q. We have at page 17 of this document, which is for future  
2 reference appendix A2, an appendix 3. The divider is at  
3 page 16. Baseline conditions are described beginning at  
4 page 17 at section 3. We can see again the drift of the  
5 document, can we not, by reference to the heading to  
6 3.1, "Geography and topology of the study area"? Have  
7 I got you in the wrong place, Mr~Rhodes?

8 A. No. I agree.

9 Q. "Geography and topology of the study area." We again  
10 see the focus on STAL land holding appears in a number  
11 of places within that section, can we not?

12 A. Yes, because the STAL land holding is the airport, which  
13 was the subject of the development and the application.

14 MR PHILLIMORE: I don't know how many other references you  
15 are going to go to, but I think the general point has  
16 probably been made now with respect to the focus of the  
17 document.

18 MR SMITH: Thank you, sir. For your note, sir, may I leave  
19 the heading to 3.2, the heading to 3.3 on page 19.

20 Then to page 59, if we may, which is a table under  
21 the heading "5.1. Cultural heritage gazetteer 2.  
22 Archaeology within 1 kilometre study area." Have you  
23 found that, Mr~Rhodes?

24 A. Yes, I have.

25 Q. We are told to refer to figures 2 and 3. This is where

1           it gets a little difficult. I hope, and think I am  
2           right in saying, that figures 2 and 3 that are referred  
3           to here are figures 2 and 3 which appear somewhat  
4           earlier in the volume. We have got --

5   A. That is also my understanding of the way it works, yes.

6   Q. We will look to those in a moment or two. We just leave  
7           that marker, that we have more than one figure 2 and 3,  
8           and we just need to get the right one in due time.

9   A. Yes.

10   Q. Moving forward from page 59 to page 61, if we could have  
11           open against page 61 the correct figure 3. It is the  
12           figure 3, if I hold mine up, which has pale blues and  
13           pale burnt sienna, is that? Pale blue and pale brown  
14           colours.

15   A. Mine is too, yes.

16   Q. It doesn't have a title, I am afraid, sir. There is  
17           more than one --

18   MR PHILLIMORE: This is archaeological features mapping?

19   A. That's right, sir.

20   MR SMITH: Yes, sir, that is so. We can see a number of  
21           numbers on that figure 3 which, as we can see in  
22           a moment, are cross-referred back into the  
23           table, amongst other places, page 61.

24   A. Yes.

25   Q. So if we look at page 61, we can pick up at 148

1 Portingbury Hills is mentioned.

2 A. Yes.

3 Q. Scheduled ancient monument. We can see the almost  
4 mallet-shaped red feature on the boundary of the  
5 1~kilometre study area on this figure 3.

6 A. Yes.

7 Q. 149, linear earthworks. We can see it picked up almost  
8 adjacent.

9 A. Yes.

10 Q. 150, named tree, Doodle Oak.

11 A. Yes.

12 Q. I am not sure that's there any more. It is probably the  
13 site of Doodle Oak now, but nothing turns on it for  
14 present purposes. We don't have a number 147 or 151 in  
15 the schedule. Can you help us with that?

16 A. No.

17 Q. We have got a 152, post-Medieval landscape gardening  
18 feature in Hatfield Forest, including a lake dug in the  
19 18th century. Large, probably Medieval, earthwork forms  
20 a boundary between Wall Wood and Hatfield  
21 Forest/Woodside Green. That appears to be the only  
22 reference to Hatfield Wood in the schedule. Do you know  
23 different?

24 A. The features you have identified previously lie within  
25 the Hatfield Forest, but you are probably right in

1 relation to the forest itself.

2 Q. They are very much in the sense of archaeological  
3 features rather than describing the cultural heritage  
4 that can be assessed by reference to Hatfield Forest and  
5 its historical and cultural associations?

6 A. Yes, they are.

7 Q. Back, if we may, to the main text of this volume 4 of  
8 the environment statement at page 2, please. We  
9 remember that paragraph at 5.1.3 --

10 MR PHILLIMORE: Sorry, Mr Smith. I think you need to guide  
11 us again. We have lost our reference.

12 MR SMITH: It is a difficult document, sir. I should have  
13 taken that more slowly.

14 MR PHILLIMORE: We have realised that.

15 MR SMITH: I have got mine in two halves, because one of  
16 them does not appear on the website. It is page 2 of  
17 the main document. It is only a few pages in from the  
18 very front cover. Sir, you are quite right to pick me  
19 up, because the transcript needs to make sense. It is  
20 page 2 near the beginning of volume 4 of the ES, the  
21 Archaeology and cultural heritage volume.

22 Paragraph 5.1.3 we looked at earlier with Mr~Rhodes  
23 and we remind ourselves again, don't we, Mr~Rhodes, that  
24 in particular the assessment draws on the audit which is  
25 at appendix A1 and A2, where we spent some time looking

1 to see what that audit tells us?

2 A. Yes.

3 Q. And that audit we can see very plainly is focused,  
4 firstly, on STAL's own land holding; secondly, on  
5 Archaeology in the tighter term and Archaeology in the  
6 tighter term even when we look within the 1~kilometre  
7 boundary?

8 A. Yes, with the exception of the caveats which I have  
9 given already and the explanation I have given already.  
10 As you know, it also looks at the 1~kilometre study  
11 area, and we have seen that in some of the references  
12 that you have taken me to. We could have looked at  
13 others. Figure 5, for instance, identifies the ancient  
14 woodland of Hatfield Forest.

15 Q. Pause there. Figure 5 is not cross-referenced in the  
16 audit, appendices A1 and A2, is it?

17 A. No, it is not.

18 Q. No. So for the audit, appendices A1 and A2, the  
19 propositions I put are right, are they not? They are  
20 Archaeology based in the tighter sense of the language?

21 A. Yes.

22 Q. They are STAL land owning based --

23 A. No.

24 Q. -- except to the extent of the 1~kilometre area where  
25 the focus still is it on Archaeology in the tighter

1 sense of the word?

2 A. Yes. Perhaps I should say that there should not be any  
3 surprise about this. As you know, STAL went through  
4 a scoping exercise for its environmental statement. The  
5 scoping document of July 2004 identified that that was  
6 the approach proposed and the scoping opinion back from  
7 the District Council did not suggest that that was the  
8 wrong approach.

9 Q. Be that as it may, you, BAA, know that you need to  
10 address matters of significance whatever it is that  
11 others may say?

12 A. Yes, yes.

13 Q. So back, if we may stay with the main text of this  
14 volume 4, Archaeology and cultural heritage, to page 3,  
15 that is to say page 3 near the beginning of the  
16 document, which introduces at 5.29 the concept of  
17 significance criteria.

18 A. Yes. Would you excuse me whilst we have page 2 before  
19 us just to answer a question you asked me yesterday and  
20 asked me to look at something overnight?

21 Q. Of course. If you have been able to do so, that would  
22 be very helpful.

23 A. That was in relation to paragraph 4.2.2 --

24 Q. Yes.

25 A. -- and whether or not the only comment received on

1 Archaeology related to the storage of archaeological  
2 finds.

3 Q. Yes.

4 A. I have been able to check that. The answer is contained  
5 in Inquiry document core document 26, which is the  
6 report of the consultation of April 2006, and it  
7 identifies on page 38 that there were two respondents in  
8 relation to Archaeology, but they both made the same  
9 point, which is that BAA should consider funding the  
10 storage of archaeological finds unearthed as a result of  
11 the airport activity. The response to that is set out  
12 on that page.

13 Q. But, if I remember rightly, the suggestion I was putting  
14 to you was that that may or may not adequately deal with  
15 Archaeology, but I was inviting you to see whether or  
16 not there was cultural heritage representations?

17 A. Well, I have looked at the consultation overnight to see  
18 whether there are other relevant references and  
19 certainly there are, for instance, a number -- there  
20 were a number of consultation responses recorded from  
21 the National Trust, some of which touched on Hatfield  
22 Forest.

23 Perhaps for the transcript and the record I can give  
24 what I believe to be short but comprehensive list of  
25 those.

1           Page 30 of the document suggests in relation to air  
2           noise that the development could prejudice historic  
3           buildings in open areas such as Hatfield Forest.

4   Q.   Quite.

5   A.   Page 32 suggested the adoption of World Health  
6           Organisation guidelines in relation to air noise.

7           Page 33 suggested --

8   Q.   Sorry to cut across.

9   A.   Yes.

10   Q.   I, of course, see all the National Trust  
11           representations. We don't need a list of them.

12   A.   Okay.

13   Q.   The point was -- and you have picked up what probably is  
14           one of them that touches on the point of cultural  
15           heritage, page 30:

16           "The National Trust considers noise can prejudice  
17           viable use and detract from public appreciation of  
18           historic buildings in open areas such as Hatfield  
19           Forest."

20           So there is a clear representation referable to the  
21           cultural heritage topic, is it not?

22   A.   Well, it is recorded in the document as a comment  
23           against the approach to air noise and that, of course,  
24           is the way it is treated in the environmental statement.  
25           I didn't see any representation from the National Trust

1 in the other references I could give you relating  
2 particularly to a suggestion that cultural heritage  
3 should be approached in the way which I think you are  
4 now suggesting to me and, of course, the cope of the  
5 environmental statement was then settled with the  
6 District Council in the appropriate way. I haven't  
7 checked, but I imagine that the National Trust was  
8 a consultee on the scoping exercise, but I haven't  
9 checked whether that is the case or not.

10 Q. Now the significance criteria introduced at page 3,  
11 section 5.2 of the environment statement, we can see how  
12 it is addressed beginning at page 4, can we not, table  
13 1, criteria used to describe the sensitivity of the  
14 receptor?

15 A. Yes.

16 Q. We have a range from very important to not important and  
17 then a miscellaneous category of uncertain importance?

18 A. Yes.

19 Q. The very important category includes -- I am not going  
20 to read it out; we can see it -- scheduled monuments,  
21 various categories of listed buildings, registered  
22 parks, battlefields, reference to ancient woodland,  
23 SSSIs and so on.

24 A. Yes.

25 Q. It is clear that Hatfield Forest would fall within the

1 very important sensitivity of receptor category, would  
2 it not?

3 A. Yes.

4 Q. If we look at table 2 on page 5, we have a list of  
5 criteria which are used to determine the magnitude of  
6 impact?

7 A. Yes.

8 Q. We can see that the description of impact is on the  
9 right-hand side, the various categories, no doubt in  
10 compressed shorthand form, but we have got them there,  
11 with the ability on the left-hand side of the table to  
12 assess adversity, for example, from very high to low,  
13 a sliding scale of sorts?

14 A. Yes.

15 Q. If we look at the description of impacts, the first row,  
16 right-hand column, my paraphrase, we have got three  
17 broad categories: loss of a site in whole or in part,  
18 change in noise or visual ambience, the first category  
19 identified.

20 A. Yes.

21 Q. Loss of building in whole or part: intrusion on setting,  
22 change in noise or visual ambience.

23 A. Yes.

24 Q. And the third listed: loss of landscape feature in whole  
25 or part, intrusion on setting, change in noise or visual

1            ambience.

2    A.   Yes.

3    Q.   So all of those are addressing, on the one hand,  
4           destruction of, say, an archaeological feature or  
5           historic feature of one sort or another, but also  
6           addressing adversity to the setting by reason of noise  
7           or adverse change in visual ambience, my paraphrase?

8    A.   Yes.

9    Q.   Page 6.  I don't look at it in any detail, but just to  
10           see how the methodology works.  We have got criteria for  
11           sensitivity -- we have got a matrix addressing criteria  
12           for sensitivity and magnitude of impact, a sort of quick  
13           reference look-up guide.

14   A.   Yes.

15   Q.   If we then, please, go forward with those in mind to  
16           page 8, this introduces section 8, the baseline  
17           conditions.  We can see how this works, can we not?  We  
18           deal first with topography at 8.1, geology at 8.2.  At  
19           8.3 we deal with Archaeology within the airport boundary  
20           and the 1~kilometre section.

21   A.   Yes.

22   Q.   I am sorry.  1~kilometre study area.  That at 8.3.1  
23           refers us again to appendix A2 --

24   A.   Yes.

25   Q.   -- and draws upon it.

1 A. Yes.

2 MR PHILLIMORE: I think Mr~Rhodes is agreeing. So what you  
3 are reading out from the -- the references you are  
4 making to the document can be taken as read.

5 MR SMITH: Thank you, sir.

6 MR PHILLIMORE: If you can just move forward, please.

7 MR SMITH: Thank you, sir.

8 The document at 8.4 speaks of scheduled monuments,  
9 listed buildings and then at 8.4.7 the historic  
10 landscape.

11 A. Yes.

12 MR PHILLIMORE: I think the point has been taken. We can  
13 skip the questions relating to seeking confirmation.  
14 The document says what it says. I think you need to go  
15 to your question, please.

16 MR SMITH: Thank you, sir. No reference to Hatfield Forest.

17 A. No.

18 Q. The approach taken in the document is plain from 8.4.11,  
19 is it not, that the whole process will allow Medieval  
20 villages and their outlying greens and hamlets  
21 associated with the Medieval expansion of settlement  
22 into woodland forest to be set in context to  
23 reconstruct.

24 A. Sorry. I am not quite sure I understood the question.

25 Q. My fault. Paragraph 8.4.11 tells us the exercise which

1 was being undertaken allows for beginning to reconstruct  
2 the development of the historic landscape in the way  
3 mentioned in the rest of the paragraph.

4 A. Right.

5 Q. There is no need to do that, is there, for Hatfield  
6 Forest? Hatfield Forest itself is a unique  
7 representation of a Medieval, social, cultural and  
8 landscape management pattern which is in many ways  
9 freestanding and readily observable today.

10 A. I agree.

11 Q. The assessment of effects in the document, taking it  
12 again very quickly, the historic landscape is at  
13 page 15, 10.2.1. That is an on airport assessment, is  
14 it not?

15 A. Well, it is an assessment of effects. It only  
16 identifies effects on airport, because those are the  
17 only historic features which are impacted by the  
18 development.

19 Q. Bear in mind that we looked at the impact criteria  
20 earlier, which included intrusion on setting, change in  
21 noise or visual ambience.

22 A. I know.

23 Q. There is no assessment there of any of those on Hatfield  
24 Forest, is there?

25 A. There is no assessment recorded, no. Similarly, there

1 is no assessment recorded against each of the 171  
2 features that you identified to me in the appendix.  
3 That wouldn't be the purpose of the document. The  
4 purpose of the document is to identify likely  
5 significant effects.

6 Q. Yes, and we are told -- do I take it from an answer you  
7 gave yesterday that effects on Hatfield Forest, if  
8 addressed in this document at all, will appear on  
9 page 15 under section 10.3?

10 A. If they were to be recorded at all, I anticipate they  
11 would appear under 10.2 or 10.3.

12 Q. We can see in 10.3.1, assuming it is sufficient to  
13 embrace Hatfield Forest, despite its heading, that the  
14 changes in noise or light are generally negligible --

15 A. Yes.

16 Q. -- compared to existing impacts from existing  
17 facilities.

18 A. Yes.

19 Q. So that is the assessment back against those criteria  
20 that we looked at in table 2, the effect on ambience  
21 through visual effects or noise effects.

22 A. It is.

23 Q. It speaks in 10.3.1, the first bullet point, that:  
24 "The visual effects are largely screened at ground  
25 height."

1           It doesn't address the point of aircrafts in flight,  
2           as we noted before.

3   A.   Correct.

4   Q.   So let us, if we may, look at these changes in visual  
5           appreciation so far as is picked up in the landscape and  
6           visual impact volume of the environment statement, which  
7           we know as CD/12, and I think is volume 9 of the  
8           statement. Yes, it is volume 9 of the environment  
9           statement.

10   A.   Did we look at this yesterday?

11   Q.   We looked at it to set a framework. Page 4 of that  
12           document, please. We need to know how the document  
13           works before we can understand it. Section 5.2  
14           addresses, does it not, types of impact?

15   A.   Yes.

16   Q.   We can see that the landscape impacts at 5.2.2 is  
17           disaggregated into effects on physical features such as  
18           land form as well as changes to the less tangible  
19           landscape character, but again both of them expressed  
20           within the airport.

21   A.   I believe that's right. We looked at this yesterday,  
22           didn't we?

23   Q.   The impacts on the landscape character we are told at  
24           5.2.4 includes addressing issues of sense of place.

25   A.   Yes.

1 Q. Can we take this perhaps fairly quickly then? It is  
2 fair to record, is it, so far as changes to the less  
3 tangible landscape character no assessment at all has  
4 been made of changes arising off airport from activities  
5 associated with the operation of the airport?

6 A. Certainly no assessment is recorded of any significant  
7 effects. We did look at this yesterday, where  
8 identified in relation to landscape assessment --I don't  
9 recall the precise reference -- but that the nature of  
10 the surrounding topography and woodland meant that views  
11 to the airport were extremely limited, apart from the  
12 viewpoint we discussed yesterday, which was assessed.

13 Q. I don't want to take advantage, but I do want to have it  
14 clear if we are going to take this quickly. It is fair  
15 to record, is it not, that no assessment has been made  
16 of effects on landscape character of any area outside of  
17 the airport boundary from the point of view of the less  
18 tangible impact on the character of the area including  
19 the sense of place of any area outside of the airport?  
20 No assessment has been recorded?

21 A. I am happy to agree with the way you have just put the  
22 question. No assessment has been recorded. Whether  
23 an assessment was made by the assessor that those  
24 effects were not sufficiently significant to write up in  
25 this volume of the environmental statement I don't know.

1 Q. No.

2 A. It is clear from the references we looked at yesterday  
3 that the writer of this section was conscious that  
4 aeroplanes in the sky could have an effect, but, as you  
5 say, that isn't translated into the text relating to  
6 landscape impacts, and that may be -- but I am only  
7 speculating -- because the assessor did not think those  
8 effects sufficiently significant.

9 Q. No. It is because of the methodology that has been set  
10 out that all that's going to be looked at is the  
11 physical effects on landscape within the area and the  
12 less tangible effects on character within the area of  
13 the airport, and it is only the visual impacts where  
14 views from outside the airport are looked at at all and  
15 only views towards the physical fabric of the airport  
16 itself has ever been addressed.

17 A. I am not happy to agree that with you. I agree that  
18 that is the way the assessment is made within this  
19 chapter, but those undertaking the assessment were  
20 clearly conscious of the potential impact of aircraft in  
21 flight. If that had been considered, it would have been  
22 part of the approach to the assessment.

23 Q. Let us see how we go. Can we take this shortcut, that  
24 this document does not help us with the setting test or  
25 the impact on visual ambience test that was identified

1 in the Archaeology and cultural heritage volume?

2 A. It helps us with assessing in the sense of it looks  
3 particularly at the visual impact of the proposed  
4 development from, for instance, Hatfield Forest.

5 Q. And the proposed development is only the physical  
6 structures within the airport in that context?

7 A. Yes, but, as I have said, I don't think you or I can  
8 agree whether or not the assessor -- what the assessor  
9 thought of aircraft in the sky, but it may be that they  
10 clearly had that in mind, because there are two or three  
11 references to it within the chapter, but not  
12 sufficiently significant to include as part of the  
13 written-up description of landscape or visual impacts  
14 outside the airport.

15 Q. Well, you associate that with a judgment as to  
16 significance. It is not recorded as such, is it, and  
17 the inference is very plain so far that the tests that  
18 have been set would exclude those from consideration,  
19 because the tests don't extend far enough to do so.  
20 That's equally available as a reading of the document,  
21 is it not?

22 A. No, no, I don't accept that.

23 Q. So where do we see anywhere in this document any  
24 reference to this general effect?

25 "We have also considered whether or not it is

1 necessary to look at impacts of character of landscape  
2 outside of the airport boundary as a result of the noise  
3 effects and the visual effects of aeroplanes where they  
4 are felt outside of the boundary of the airport and have  
5 decided that none is significant."

6 Where do we see that?

7 A. Where do we see it in this chapter?

8 Q. Yes.

9 A. We don't see it in this chapter, but this chapter is  
10 concerned with identifying likely significant effects.  
11 It, of course, derives from the scoping of this  
12 chapter with the District Council. If it had been felt  
13 to be inadequate, it would have been subject to  
14 a regulation 19 request to address this particular  
15 point. It would have been open to the National Trust to  
16 point that out to the District Council, and the National  
17 Trust was clearly closely involved in the process. It  
18 didn't do so at the time. The District Council did not  
19 suggest that the assessment was insufficient, and we  
20 know the evidence of the District Council to this  
21 Inquiry is that the assessment was sufficient.

22 Q. Now we can see from page 7 of this volume -- categories  
23 of visual impact I am on now -- we have got categories  
24 from "Substantial" to "No change". We can see in the  
25 "Substantial" category, third line, highly sensitive

1 receptors include walkers on countryside trails.

2 A. Yes.

3 Q. We can see in 5.5.9:

4 "In addition to the visual effects on people, the  
5 visual effects on the settings of listed buildings and  
6 structures have been assessed. They are considered to  
7 be highly sensitive receptors, because the setting can  
8 influence the appreciation of important historic  
9 buildings."

10 Very much a similar point as was made in the  
11 cultural heritage volume in relation, for example, to  
12 historic landscapes.

13 A. Yes.

14 Q. This is the equivalent language covering the same  
15 territory, is it not?

16 A. It is.

17 Q. We can take some of the viewpoints that are used for the  
18 visual impacts as illustrative, if I may, by reference  
19 to -- we may as well start -- probably best start at  
20 page 22, viewpoint 2, the footbridge across the M11. We  
21 may or may not want to turn it up, but we can notice,  
22 for example, at 11.3.17, fast moving traffic on the M11  
23 influences the character of the view.

24 A. Yes.

25 Q. So the movement of traffic as opposed simply to the

1 physical structures clearly capable of being a material  
2 factor, the movement of vehicles?

3 A. Yes, particularly when you are standing above the  
4 motorway.

5 Q. Yes, and it is the character of the view that is being  
6 addressed here as well as what is in the view.

7 A. Yes.

8 Q. And so as a topic -- I don't want to go through a whole  
9 load of other illustrations -- there is nothing between  
10 us, is there; that the movement of vehicles, and  
11 I should add the movement of aeroplanes, is capable of  
12 affecting the character of a view?

13 A. I agree, nothing between us or those who carried out the  
14 assessment.

15 Q. If we can look, please, to page 32 of the volume -- sir,  
16 I am very much taking the hint or the push. I am not  
17 looking at all other viewpoints and no doubt you will  
18 see similar points for yourself when reading.

19 Page 32 of the volume, section 12 is addressing  
20 cumulative and interactive effects.

21 A. Yes.

22 Q. The document fastens on the interaction with ecology,  
23 does it not, but has no other reference to interactive  
24 elements. Do you see that at 12.22.1 for ecology?

25 A. Yes, I see that.

1 Q. But no cross-reference, for example, to cultural  
2 heritage, no cross-reference to noise. We are looking  
3 at interactive effects.

4 A. Correct.

5 Q. Could we exchange this for the air noise volume to see  
6 how air noise is addressed in relation to the forest?  
7 The air noise volume is volume 2 of the environment  
8 statement. We know it as core document 5. I have that  
9 ready just in case we need it. We can take some  
10 shortcuts I hope here. We remember that the air noise  
11 volume writes changes of up to 2DB LEQ as immaterial or  
12 insignificant, even unnoticeable.

13 A. Yes.

14 Q. You yourself are aware of the Department of Transport  
15 consultant echostician, who gave evidence to the  
16 Terminal 5 Inquiry to the effect that even 0.5DB LEQ  
17 could be a significant change?

18 A. I am not aware of that in any detail.

19 Q. Can I leave you, sir, with a cross-reference? Amongst  
20 other places, Mr Stigwood's proof for the National  
21 Trust, page 21, paragraph 5.14.

22 MR PHILLIMORE: Could you give us the reference for that?

23 MR SMITH: NT/3/A. I am sure, sir, it is in other places.

24 MR HILL: I did not catch the paragraph.

25 MR SMITH: Page 21, paragraph 5.14.

1           We also know, don't we, that the air noise volume,  
2           as we established I think yesterday, was essentially  
3           confined for the day time noise to the LEQ contours and  
4           57 and above?

5    A.   Yes.

6    Q.   Those who were carrying out the noise assessment  
7           presumably applied their judgment to that when deciding  
8           what was the appropriate basis for assessing air noise  
9           effects on the areas, including areas such as Hatfield  
10          Forest?

11   A.   Yes.

12   Q.   You for your point, however, have recognised that that  
13          in itself is not a complete assessment, haven't you?

14   A.   I have recognised that for planning purposes, which is  
15          the purpose of my evidence, that it is also sensible to  
16          consider the effect on the character, yes.

17   Q.   And so you agree with my proposition, but add that  
18          explanation?

19   A.   Yes.

20   Q.   We can see that you have done that in your proof,  
21          BAA/1/1, beginning at page 45. Perhaps we should look  
22          to that now. You were taken to this paragraph, 9.26, by  
23          my learned friend Mr Stinchcombe a few days ago. You  
24          will recall it I know.

25   A.   Yes.

1 Q. You were taken to sub-paragraph 3, where you were  
2 reciting Mr Charles' evidence that a difference of less  
3 than 2DB is not considered material by him.

4 A. Yes.

5 Q. Forgive me. It is not a criticism. It is not  
6 a criticism, Mr~Rhodes, either of you or my learned  
7 friend Mr Stinchcombe, but I just want to revisit the  
8 questions and answers there to tie up some of the  
9 questions and answers, if I may, with your help.

10 Do you remember that we looked at -- rather, the two  
11 of you looked at the LEQ contours?

12 A. I do.

13 Q. And I think once or twice reference was made to them as  
14 being noise contours. You know enough about this topic  
15 to know they are not noise contours. They are simply  
16 contours of equal energy.

17 A. You have gone beyond my expertise already, I am afraid.

18 Q. Very well. It was, secondly, put to you that  
19 an increase of 3DB would be a doubling of noise. Do you  
20 remember that?

21 A. I do.

22 Q. I think you accepted it.

23 A. Yes.

24 Q. Probably what was meant was that 3DB was a doubling of  
25 energy --

1 A. It may have been.

2 Q. -- or sound pressure levels.

3 MR HUMPHRIES: Sir, I think on this Mr Rhodes is not --

4 I know what Mr Smith is talking about and I am sure

5 Mr Charles will be able to deal with this. Mr Smith is

6 right. It is sound energy.

7 MR PHILLIMORE: I think, Mr Smith, the questions are

8 probably better put to another witness.

9 MR SMITH: Yes, sir. I just wanted to make sure I did not

10 take advantage or there was no mistake about it over the

11 terminology. Of course Mr~Rhodes is not a noisologist

12 and one cannot expect him to deal with acoustic terms

13 entirely precisely. Perhaps I am doing no more than

14 leaving a marker.

15 But whatever it is that is being addressed, we need,

16 do we not, to assess the effect of these changes of the

17 noise energy levels as represented by the contours on

18 the forest for the reasons that you explained a moment

19 ago, that in order to complete the assessment, that

20 needs to be done?

21 A. Not just on the forest, but on, of course, the wider

22 area of impact.

23 Q. Very well. We need to do it in a way that you come to

24 address later in your proof -- my focus on Hatfield

25 Forest -- in the context of Hatfield Forest to address

1 the extent to which the increase in activity has any  
2 effect and, if so, what effect on these various  
3 intangible aspects of landscape character, visual  
4 ambience and overall setting for an historic or cultural  
5 asset such as Hatfield Forest.

6 A. Yes. I have tried to assess, if you like, the planning  
7 consequences of the environmental effects which have  
8 been identified.

9 Q. Yes. We can disagree between us over the result of your  
10 assessment, but that's an assessment that you have  
11 carried out and reported essentially at paragraphs 9.30  
12 to 9.32 of your proof.

13 A. Yes.

14 Q. You address the sound or the noise aspect of the  
15 equation at 9.32, do you not?

16 A. I do.

17 Q. And you are there looking at the -- I am pausing only to  
18 make sure I don't hoist myself by my own petard -- I was  
19 going to say the frequency of events, but that becomes  
20 an acoustic term. You are looking at the change in  
21 regularity of aircraft events.

22 A. Yes.

23 Q. The spacing between them.

24 A. Yes.

25 Q. You recognise that addressing the difference in spacing

1           between aircraft movement is a material factor. We can  
2           disagree over conclusions, but it is a material factor.

3   A.   Yes.

4   Q.   You point out at 9.31, again part of the sound part of  
5           the equation, at the end of that paragraph, 9.31, that  
6           the effect of the G1 proposals would be that the peak  
7           would spread towards the middle of the day.

8   A.   Yes.

9   Q.   Put another way, the opportunity for reduction -- the  
10          experience of reduction in numbers of aircraft  
11          throughout the pattern of the day becomes more flat.  
12          I~didn't put that at all well, did I?

13  A.   No, but I understand what you mean, and I agree with  
14          you.

15  Q.   This change in the profile of the peakiness of movements  
16          again is a matter capable of being something which will  
17          affect the overall setting and ambience of Hatfield  
18          Forest as a cultural and historic asset.

19  A.   In principle, yes.

20  Q.   You are never going to agree that you are wrong, so I am  
21          not going to suggest that you are. We just need to look  
22          at the tests.

23                 We have got in these paragraphs, 9.30 to 9.32, your  
24                 assessment of it, but broadly speaking the scale of it  
25                 is this, that depending where one is in Hatfield Forest,

1 each aircraft event, if I may call it that, be it  
2 a take-off or a landing, lasts for some time. It is not  
3 like a crackerjack or a pistol shot going off. The  
4 aircraft event lasts for, what -- without being too  
5 precise about it -- some one or two minutes, depending  
6 where one is in the forest.

7 A. Yes. I have tried very hard to reach my own view about  
8 that, although there is no substitute for the inspectors  
9 doing the same thing. It is a matter of perception.  
10 One of the difficulties that perhaps you and I have is  
11 if we go to Hatfield Forest at the moment, we go to  
12 listen to aeroplanes whereas most people go to enjoy  
13 Hatfield Forest, but I have tried to reach my own  
14 assessment, and broadly my view is different from that  
15 set out in Mr Stigwood's proof, but not hugely. It  
16 partly depends on which path the planes are on --

17 Q. Yes.

18 A. -- whether they are on the Clacton route, in which case  
19 one can hear them for slightly longer I think, but not  
20 as loud; if they are on the Buzzard route, they tend to  
21 turn away more sharply from the forest and can be  
22 momentarily louder, but for a shorter period of time;  
23 and Dover, obviously somewhere in between.

24 As a generality my own observations were that the  
25 planes were noisy for 30 to 40 seconds. There was

1 a period after that when one could certainly hear the  
2 planes and it varied, but it was roughly another 30 to  
3 40 seconds, and there is a description in Mr Stigwood's  
4 evidence of that second period with which I don't  
5 disagree, which is that during that period it did not  
6 necessarily generate sound pressure levels significantly  
7 above the natural sound levels during this period,  
8 although they did fluctuate. That's set out in his  
9 proof at paragraph 10.15.

10 There tend to be -- obviously it is a gradation, but  
11 to try to be objective about it -- two parts to the  
12 event. One is the noisier part and the other is the  
13 consequential period when the noise can be heard but is  
14 not as loud.

15 Q. I am afraid I am going to have to pick you up, because,  
16 of course, describing something as noisy begs the very  
17 question on the premise that noise is nothing more than  
18 unwanted sound and that is a judgment in the ear of the  
19 receiver. What I am trying to get across in as neutral  
20 a fashion as I can, without being too precise about it,  
21 and depending, as you say, one, whether we are on  
22 departures or, two, whether we are on arrivals, and  
23 depending within that if we are on departures, which  
24 departure route is being used --

25 A. Yes.

1 Q. -- without being too precise about it, but bearing in  
2 mind the inspectors will form their judgment, the period  
3 during which an aircraft event is audible is in the  
4 order of one or two minutes, sometimes longer, sometimes  
5 shorter, but it is of that sort of order, is it not?

6 A. Yes, it is.

7 Q. I am not, of course, going to pin you to it and say,  
8 "There is a difference between you and your noise  
9 expert", but so the inspector gets a flavour, we are  
10 talking of one or two minutes or thereabouts when  
11 an aircraft is going to be audible to us. Forget  
12 whether it is noisy. That's for others to assess.

13 If we look at your 9.32 in BAA/1/A, we are going to  
14 get on departures an increase from about 14 to about 25  
15 an hour in the hour that you have alighted upon.

16 A. Yes. As you know, I have deliberately taken the worst  
17 hour I could find.

18 Q. Again we can debate whether it is the worst hour or not,  
19 but we are just looking at the exercise the inspector  
20 will need to address, but on the one you have taken we  
21 have a change from take-off every 4.3 to a take-off  
22 every 2.4 minutes in the one you have chosen.

23 A. Yes.

24 Q. So if -- and I am not wanting to trap you with your  
25 previous answer -- each event lasts about one or

1 two minutes, that's the sort of change that will result  
2 in there being no respite at all between aircraft events  
3 from the point of view of being able to hear them.

4 A. No, I don't agree with that.

5 Q. Very well.

6 A. Certainly I have concerns about the concept of respite  
7 and about the way in which Mr Stigwood's evidence tries  
8 to calculate that. The simple truth is that if one is  
9 in Hatfield Forest, one is very aware now if one is  
10 affected by these things that there are aeroplanes  
11 frequently in the sky.

12 Q. But the --

13 MR BOYLAND: Could I interject just for clarification? You  
14 refer to the worst case example, Mr~Rhodes. By that do  
15 you mean the hour in which there is the greatest  
16 relative increase?

17 A. Yes, sir.

18 Q. It is certainly not the busiest hour, is it, overall?

19 A. It is not the busiest hour. The figures, as you know,  
20 are set out in volume 16 of the environmental statement.  
21 It is not the busiest hour, but it is the greatest  
22 increment occurs during that time period.

23 MR BOYLAND: I thought that's what you meant. I just wanted  
24 to be clear. Thank you.

25 MR SMITH: You may want a cross-reference to Mr Charles'

1           rebuttal evidence, page 10, where there is a table of  
2           numeric values.

3   MR BOYLAND:   Yes, I have seen that.

4   MR SMITH:   That is BAA/2/E.

5   A.   The other helpful reference is table 4 in his rebuttal,  
6           which sets out the average increase across the summer  
7           day.

8   Q.   Again, Mr~Rhodes, and again, sir, the detail of this is  
9           for other witnesses.  I am just trying to give a picture  
10          of the factors that we can agree as being material  
11          factors without debating who is right and who is wrong  
12          at this stage.  I hope that is a satisfactory use of  
13          Inquiry time.

14                The other point, of course, Mr~Rhodes, is this.  We  
15                have looked a moment ago at the spacing between aircraft  
16                within any given hour in the sense of an average  
17                frequency of occurrence and an average spacing between,  
18                but at the moment, and the expectation carries into the  
19                future for the 25 million case, what tends to happen is  
20                that arrivals and departures within an hour tend to be  
21                bunched, if that's not too technical an expression.

22   A.   I can understand "bunched".  Thank you.

23   Q.   They do tend to be bunched, don't they?  Around any  
24          period within a clock hour one tends to get, say, half  
25          a dozen aeroplanes within quick succession and then

1           there tends to be a gap within the same clock hour and  
2           then another bunch of, say, half a dozen?

3    A.   I have not studied it, but that is my experience.

4    Q.   We need to bear this in mind, don't we, that moving from  
5           25 million to the 35 million, the extra aeroplanes will  
6           inevitably spread the bunch, if I can put it that way,  
7           so the gaps between the bunches are going to be intruded  
8           upon as well.

9    A.   To some extent, yes.

10   Q.   Again the extent of that is for the inspectors, but it  
11           is a factor that properly needs to be weighed when  
12           looking at the overall ambience and setting of Hatfield  
13           Forest.

14   A.   Yes, it is.

15   Q.   Again this is an additional feature that you have  
16           brought forward in relation to the air noise aspects  
17           strictly confined and so-called as well as the landscape  
18           and visual aspects strictly confined and so-called as  
19           well as the Archaeology and cultural assessment strictly  
20           confined and so-called. All of it bears upon those  
21           three broad topics, does it not?

22   A.   It does, yes. I have asked myself, "What would it be  
23           like to be there?"

24   Q.   Yes, and that's a valid point, of course.

25            Could I leave you, sir, with just a further

1 cross-reference on this question of spacing between  
2 events, which you may find helpful to bear in mind, and  
3 that is to Dr Findell's main proof, BAA/7/1, where he,  
4 Dr Findell, looks at the duration of time of audibility  
5 of trains. Not that that directly impinges on Hatfield  
6 Forest, but it is the same point in a different context.

7 MR HUMPHRIES: I hope my learned friend is careful not to  
8 give evidence. I don't know whether it is the same  
9 point but applied to trains. I know what Dr Findell  
10 says. This is really the opportunity for  
11 cross-examination rather than lots of comment.

12 MR PHILLIMORE: I have noted your comments on that. Thank  
13 you.

14 MR SMITH: Point taken. I was not aware I was giving  
15 evidence, but if I was, then, of course, I will be  
16 cross-examined in due time.

17 I can leave that I hope fairly at that stage,  
18 Mr~Rhodes. We are never going to agree on the answer,  
19 but we are agreed on what are the material factors to  
20 weigh in the overall equation.

21 A. Yes.

22 Q. You also dip your multi-disciplinary toe into the air  
23 quality topic. I wonder if we could just look to your  
24 proof at page 69. BAA/1/A, section 11.17 is where I'd  
25 like to focus. You tell us at 11.17 -- I paraphrase --

1 the modelling referred to by Mr Pratt, his evidence  
2 focuses on the issues of principal concern to Natural  
3 England, the National Trust and SSE, namely nitrogen  
4 deposition in Hatfield Forest and East End Wood.

5 A. Yes.

6 Q. You are aware presumably -- of course, the rest of this  
7 section of your evidence addresses nitrogen deposition.  
8 We just have to cast our eyes very quickly over your  
9 subparagraphs within 11.17 to see that practically all  
10 the paragraphs refer to deposition levels.

11 A. Yes.

12 Q. If we can look at the air quality environment statement,  
13 which we know as CD/6. It is volume 3 of the  
14 environment statement, page 3. Section 4 addresses  
15 stakeholder consultation. Page 3, sir, environment  
16 statement, volume 3, air quality.

17 MR PHILLIMORE: Hold on a minute, please. It is page?

18 MR SMITH: Page 3. Page 3, section 4 introduces  
19 consultation, stakeholder consultation more  
20 specifically, at 4.1, introducing table 1. Do you see  
21 that?

22 A. Yes.

23 Q. We can see the last row, "National Trust". I pick up in  
24 the right-hand column, third line down:

25 "For the air quality perspective it was agreed the

1 presentation of NOx concentrations would be sufficient  
2 to assess the nature conservation effects in the  
3 proposals. Nitrogen deposition, while important, is  
4 a national rather than a local issue and therefore such  
5 data not required in the ES."

6 A. Yes.

7 Q. So perhaps it is a slip of the pen, but when you tell us  
8 at 11.17 that the area of principal concern to the  
9 National Trust was nitrogen deposition, that doesn't  
10 actually reflect the position. The position of the  
11 National Trust was in relation to nitrogen  
12 concentrations or rather NOx concentrations.

13 A. Yes. I mean, it is not for me to say, but the National  
14 Trust's position may have changed over time. If the  
15 National Trust are no longer concerned about nitrogen  
16 deposition, then obviously that's good.

17 Q. I am sorry to cut across.

18 A. I certainly understood from pre-Inquiry statements that  
19 the issue of nitrogen deposition had become in the eyes  
20 of some parties to the Inquiry more significant than had  
21 appeared to be the case at the time the application was  
22 put together.

23 Q. It is very clear, is it not --

24 MR HUMPHRIES: Sir, I apologise for intervening. We see in  
25 the officers' report, CD/34, paragraph 194, there is

1 recorded this:

2 "The National Trust in its representations has  
3 registered a strong objection to the proposals on the  
4 ground that insufficient information has been provided  
5 on the effects. It highlights nitrogen deposition in  
6 the area that's approximately twice the 17 kilograms per  
7 hectare a year, which is the level at which it is  
8 considered there is damage to woodland habitats. So it  
9 satisfied the European Commission committee on long  
10 range atmospheric pollution."

11 The difficulty is, with the best will in the world,  
12 Mr~Rhodes, trying to understand what another party is  
13 doing. Now if, as he says, he has got it wrong, well  
14 that's good and we can move on, but this is what was  
15 being reported to us by the Council as a matter on which  
16 the National Trust were very concerned. So there is  
17 little point spending a lot of time pursuing this  
18 I suspect.

19 MR SMITH: I was not proposing to spend a lot of time,  
20 simply to have it recorded for your understanding, sir,  
21 that the environment statement records, and as far as an  
22 impression can accurately do so, I make no complaint  
23 about it, that it was the NOx concentrations that were  
24 the focus of the National Trust for the reasons given by  
25 the National Trust in relation to depositions, namely

1           that it is a national phenomenon rather than specific  
2           here. I simply wanted to have that aspect clearly  
3           understood, sir, by you, because, of course, you would  
4           otherwise not have known the position by reference only  
5           to 11.17 of Mr~Rhodes' proof. I make no point of  
6           criticism other than to clarify.

7   MR PHILLIMORE: You can put the question to Mr~Rhodes.

8           I think it has been answered by Mr Humphries.

9   MR SMITH: Yes, Mr Humphries, the peripatetic witness.

10   MR HUMPHRIES: You will have your opportunity for  
11           cross-examining.

12   MR PHILLIMORE: Is that sufficient on the point? Can we  
13           move on from that?

14   MR SMITH: I use Mr~Rhodes to leave a marker.

15           Mitigation is the heading, Mr~Rhodes. Could we get,  
16           please, the nature conservation document in front of us,  
17           please? We know it as core document 13. It is  
18           volume 10 of the environment statement.

19           Page 19 of CD/13 introduces section 7 under the  
20           broad heading "Legislative and policy background". It  
21           is in that context I invite you to come with me to  
22           page 20, paragraph 7.3.4. Are we there?

23   A. Yes.

24   Q. Thank you.

25           "BAA has developed its own policies on biodiversity

1 and sustainability which are also relevant to the ways  
2 these are treated and the commitment they represent.  
3 The sustainability policy related to the environment  
4 states that BAA will protect the environment and ensure  
5 prudent use of natural resources.

6 The delivery of this commitment", we are told in the  
7 next paragraph, "will be through reducing and mitigating  
8 the environmental effects of growth at BAA's airports".

9 A. Yes.

10 Q. In that context I would like you to go to page 43, where  
11 at paragraph 8.12.15, the last sentence, we are reminded  
12 that:

13 "In the nature conservation and ecology context  
14 Hatfield Forest is known to be of European  
15 significance."

16 Do you see that reference to the international ...?

17 A. Yes, in relation to certain of its fauna, yes.

18 Q. We know that so far as the ecological effects of NOx  
19 concentrations are concerned -- again no criticism --  
20 Mrs Anderson and her team are dependent on the air  
21 quality modelling work produced by Mr Pratt and his  
22 team.

23 A. Yes.

24 Q. It is not a criticism. It is the way things go. You  
25 know that the Trust itself is sceptical -- I put it as

1 neutrally as I can -- about the validity of the NOx  
2 modelling.

3 A. I do.

4 Q. Of course, we are not going to debate that. It is part  
5 of the context. You also know that the Trust does not  
6 subscribe to the exclusion zone concept for the  
7 30 micrograms per cubic metre limit set for protection  
8 of vegetation to which BAA does subscribe.

9 A. If you tell me, then I accept that from you.

10 Q. Well, the broad point is that BAA says that there is  
11 a broad area round motorways in which the NOx limit  
12 value set for the protection of vegetation simply does  
13 not apply --

14 A. Yes.

15 Q. -- are you aware of the point -- although Mrs Anderson  
16 says nevertheless she is going to use that level for the  
17 purposes of her assessment.

18 A. I understand. BAA, of course, is doing no more than  
19 following government policy in that respect.

20 Q. We don't need to debate it. It is just a context. We  
21 can see for your comfort at 10.4.4 of the ecology  
22 volume, page 57, taking the exclusion as a given,  
23 Mrs Anderson says:

24 "Notwithstanding this exclusion, the concentration  
25 is still relevant to the assessment of possible

1 ecological effects within the context of the  
2 environmental assessment."

3 Put shortly, she is saying, "I know what everyone  
4 says about the exclusion zone, but I am using that value  
5 as a criterion against which to make the assessment".

6 A. Yes, although also identifying that the 30 micrograms  
7 contour does not impinge on the forest.

8 Q. That goes back to our concern about the modelling work.

9 A. Yes.

10 Q. Your rebuttal proof, if we may, BAA/1/D, at page 6. You  
11 are here addressing the white paper, the ATWP. No, you  
12 are not.

13 A. You want page 8 I think.

14 Q. Sorry. Have I ...? I am assuming it is page --

15 A. Sorry. Page 9.

16 Q. I am picking up your 2.17. Maybe I have got  
17 a defective -- have I got a defective bundle?

18 A. No, you are right. Sorry. I thought you were on  
19 a different point.

20 Q. I am sorry. 6s and 8s at my age look very similar, but  
21 it is paragraph 2.17:

22 "Consistent with this advice, paragraphs 3.5 and 3.6  
23 of the ATWP advise ..."

24 Then you set out:

25 "At the local level decisions about the amount and

1 location of future airport capacity must properly  
2 reflect environmental concerns."

3 I read out the bits which I think you have  
4 underlined:

5 "Adverse impact should be controlled, mitigated and,  
6 where relevant, made the subject of suitable  
7 compensation."

8 Some principles are set out. They provide  
9 a framework:

10 "Should operator manage the local environmental  
11 impact of aviation and airport development? We will  
12 respect targets on air quality, air and water quality,  
13 which have been agreed to protect human health and the  
14 wider environment."

15 Pausing there, the local level which is there  
16 referred to needs to be seen in the context of the  
17 European significance in some senses, ecological senses  
18 of Hatfield Forest, does it not?

19 A. Yes.

20 Q. At page 10 of your rebuttal, 2.29 -- I have just spotted  
21 I seem to have a page missing. That depends whether it  
22 is a 6 or an 8 I suppose. At any rate 2.29 -- 2.17:

23 "This is a clear reference to a concern which had  
24 been expressed by consultees about air quality in  
25 relation to Hatfield Forest and which is emphasised, for

1 instance, in a UDC document."

2 So supposing, whatever the model says, in real life  
3 the NOx concentrations in Hatfield Forest come to exceed  
4 the 30 -- take that as a supposition -- and suppose,  
5 secondly, that that excess over 30 is as a result of  
6 a significant contribution from Stansted's aircraft and  
7 associated road traffic after implementation of the  
8 35 million proposals, what would BAA do?

9 A. What would BAA do?

10 Q. Yes. Supposing in real life it turns out -- never mind  
11 what the modelling tells us will or will not happen --  
12 supposing it turns out that as a result in significant  
13 part of BAA's aircraft and/or associated vehicle  
14 activities the concentrations, in fact, exceed  
15 30 micrograms per cubic metre in Hatfield Forest, what  
16 would BAA do about it?

17 A. I am only struggling with the context of your question.  
18 I mean, the issue being addressed here, of course, is  
19 whether or not planning consent should be granted.

20 Q. I am looking at mitigation. What I am asking is what  
21 would BAA do in the event that planning permission is  
22 granted and concentrations are found to exceed  
23 30 micrograms as a result -- I should say as a material  
24 result of BAA's operations in the air and on the ground  
25 and associated road traffic to and from the airport?

1           What would BAA do?

2    A.   I do want to answer your question.  Are you asking me  
3           how does one mitigate air quality impacts of aviation?  
4           Is that the question?

5    Q.   I will put it again.

6    MR PHILLIMORE:  He is seeking clarification of the timespan  
7           of your question, the sequence in terms of when that  
8           would occur, the hypothetical position you are taking.

9    MR SMITH:  After the grant of permission.  I should have  
10           made that plain.  I thought it was plain.  At a time  
11           after the grant of permission in the event that  
12           30 micrograms per cubic metre is found actually to be  
13           exceeded within Hatfield Forest as a result or  
14           materially as a result of the operations carried out at  
15           and in association with Stansted Airport, what would BAA  
16           do?

17   A.   BAA would fulfil its obligations under its planning  
18           consent, whatever they said BAA should do.  So if this  
19           issue is to be addressed in a planning consent, it would  
20           presumably be addressed in a section 106 agreement.

21   Q.   Can I then ask you this: what could BAA do?

22   A.   I thought that was the question you were asking me.

23   Q.   What could they do?  What measures could BAA take to  
24           bring back concentrations so that they are not exceeded  
25           as a result of BAA's airport and associated activities?

- 1           What could be done?
- 2    A.   In that scenario, which you know I don't accept, but in  
3           that scenario I accept that it would be extremely  
4           difficult to mitigate impacts on air quality from  
5           aviation.  There are certain things which can be done  
6           within the airport, but they are largely being done  
7           already.  There are, as you know, improvements,  
8           improvement targets for aviation through the sustainable  
9           aviation consortium, of which BAA is part, but in terms  
10          of actual, specific measures that can be taken on  
11          a day-to-day basis, it would be extremely difficult, if  
12          not impossible, to mitigate the impact of air quality  
13          from the airport.
- 14   Q.   So for all practical purposes should we assume that in  
15          the event after permission is granted concentrations do  
16          exceed 30 micrograms per cubic metre materially as  
17          a result of the operations of the airport and its  
18          associated road and vehicle traffic, that for practical  
19          purposes nothing could be done?
- 20   A.   In terms of mitigation that is my understanding.  If  
21          that is the case, then the Air Transport White Paper  
22          would suggest we would look to compensation rather than  
23          mitigation.  That's the hierarchy of approach suggested  
24          in the white paper.
- 25   Q.   Just supposing that we are right and there is no

1 exclusion zone, and meeting the 30 micrograms per cubic  
2 metre is a legal obligation owed by us, that is to say  
3 this country, to the European Union, apart from our own  
4 statutory obligations that are carried over, how would  
5 you suggest that this country could be brought out of  
6 a breach of its obligation to Europe in the event  
7 permission is given and as a result of the operations at  
8 and associated with the airfield the 30 micrograms per  
9 cubic metre is exceeded? The answer is presumably the  
10 same as you have given already, that next to nothing  
11 could be done?

12 A. You are asking me I think a scenario which is based on  
13 a number of propositions which I don't accept and which  
14 is contrary to national policy. If the exclusion limits  
15 didn't apply, then the exceedance which you are asking  
16 me to assume might exist in Hatfield Forest and which  
17 the evidence suggests wouldn't exist in Hatfield Forest  
18 would be one of the smallest issues facing the UK  
19 government, because you know that NOx concentration  
20 levels across the country within the exclusion zones are  
21 commonly very substantially higher. So it's an entirely  
22 I think hypothetical question that you're asking me.

23 Q. So is that why you are not going to answer it?

24 A. Well, I have given you my view about mitigation as  
25 fairly as I possibly can.

1 Q. Thank you.

2 MR PHILLIMORE: Can we take a break there, please? Can you  
3 just give me an indication how much longer you might  
4 need, Mr Smith?

5 MR SMITH: Two, three, five minutes.

6 MR PHILLIMORE: I think in that case we will continue if you  
7 can finish in that time, on the understanding it is not  
8 going to be any longer than that.

9 MR SMITH: I am given a choice. I have got a fair bet.  
10 Yes, it is five minutes.

11 Mitigation is the topic still. Noise aspects is the  
12 topic. We know that we might disagree about the effects  
13 of it, but remember we looked at the bunching phenomenon  
14 of the aircraft events, be it on take-off or landing,  
15 and we have been reminded by you and in a number of  
16 other places that the effect of going to 35 million from  
17 25 is that there is going to be the spreading that we  
18 spoke of both throughout the day, but also the spreading  
19 of the bunched aircraft within any given hour.

20 I inelegantly put the topic.

21 Has BAA given any thought from the point of view of  
22 mitigating its impacts on the environment to managing  
23 demand by planning the slot allocations in such a way as  
24 to continue to maximise the respite periods between  
25 groups of movements?

1 A. I don't know, but I doubt it.

2 MR HUMPHRIES: I think there may be a misunderstanding.

3 Slot allocations at the beginning of the year are total  
4 numbers of slots. The management of traffic on the  
5 airfield will obviously be controlled by the control  
6 tower there, all aircraft. BAA does not directly manage  
7 that in I think quite the way that could be controlled  
8 through planning condition.

9 MR SMITH: I was not asking about planning condition and,  
10 yes, you are right. I perhaps transferred a term of art  
11 from one discipline into another when I spoke of slot  
12 allocation. I will put it slightly more generically.  
13 I expect the answer will be the same.

14 Has BAA given any thought to managing demand by  
15 planning the departure and arrival times in such a way  
16 as to maximise the periods of respite between groups of  
17 aircraft movements within any given clock hour or at  
18 all?

19 A. Not as far as I am aware.

20 Q. Has BAA given any thought to managing demand by looking  
21 to the overall throughput such a way as to maximise the  
22 respite periods between groups of movements if  
23 35 million in itself would rule out any opportunities  
24 for doing so?

25 A. It is my fault, but I am not sure I have understood the

1 difference between that and the previous question.

2 Q. I was assuming that it might be said that 35 million  
3 almost by definition means that we have got no room for  
4 manoeuvre, and if that point is put forward or in the  
5 event that that is the case, has BAA considered pulling  
6 back from 35 million in order to give itself more room  
7 to manoeuvre to mitigate the timing of its aircraft  
8 flights with a view to managing and reducing the effects  
9 on the environment by so doing?

10 A. I can't, of course, definitively answer that question,  
11 because I don't know everything that BAA has considered,  
12 but I am not aware that it has and I would not expect it  
13 to have done, because the advice to BAA is consistent  
14 with the advice in the environmental statement, that  
15 there are no significant additional environmental  
16 effects arising in terms of, for instance, noise or air  
17 quality from the increase from 25 to 35 MPPA. So  
18 I would not expect it to compromise the operation of the  
19 airport on that basis.

20 Q. Thank you, Mr~Rhodes. Thank you, sir.

21 MR PHILLIMORE: Thank you very much, Mr Smith. We will take  
22 a break now. Can I just ask whether there are going to  
23 be any other questions for Mr~Rhodes from other parties?  
24 Thank you very much. Mr Humphries, just an indication,  
25 if you can, of how long your re-examination might take.

1 MR HUMPHRIES: Sir, that is quite hard, because the  
2 re-examination is not prepared quite like the  
3 cross-examination. I would think about two hours. I am  
4 obviously re-examining a witness who has been  
5 cross-examined since the beginning of Tuesday. It is  
6 difficult, but that is my feel for it anyway.

7 MR PHILLIMORE: Thank you very much. It is helpful at this  
8 stage. It is just 11.40. We will take a fifteen minute  
9 break and come back at 11.55. Thank you very much.

10 (Short break)

11 MR PHILLIMORE: If we can resume again, please. We have  
12 been given a piece of paper headed "Questions to John  
13 Rhodes from Debbie Bryce", setting out two questions  
14 relating to matters coming from the environmental  
15 statement. We don't have the answer to those questions  
16 already. Rather than take up Inquiry time on them what  
17 we suggest is if Debbie Bryce would like to speak to  
18 Mr~Rhodes outside the Inquiry, I think he will be able  
19 to answer them for her. Thank you very much for that.

20 Mr Humphries.

21 MR STINCHCOMBE: Sir, I do apologise for intervening.  
22 I understand that there may be one or two other members  
23 of the audience who didn't appreciate that you were  
24 giving them an invitation to put questions to Mr~Rhodes  
25 just before the adjournment and you may have I think the

1 odd question to us. It has come to my information  
2 during the course of the adjournment. So it might be  
3 worth posing the question of them again.

4 MR PHILLIMORE: The invitation was to the main parties  
5 rather than a general open floor invitation for  
6 questions.

7 MR STINCHCOMBE: Do I take it from that that members of the  
8 public are not going to be invited to ask supplementary  
9 questions if they felt they have them to ask?

10 MR PHILLIMORE: That would be our normal approach. Unless  
11 we feel there is additional information we need, the  
12 general approach will be the members of the public who  
13 are not principal parties will not be invited to put  
14 questions.

15 Thank you, Mr Humphries.

16 Re-examination by MR HUMPHRIES

17 MR HUMPHRIES: Mr~Rhodes, I am conscious that you have now  
18 been in the witness box for some three and a half days  
19 and wish to return to your family this week-end. We  
20 have got 43 points in re-examination. I tell you that  
21 not to daunt you, but so that as you tick off each one,  
22 you know you are a little bit closer to home.

23 A. That's kind. Thank you.

24 MR PHILLIMORE: That's easier to interpret than your number  
25 of pages.

1 MR HUMPHRIES: Sir, almost anything is easier to interpret  
2 than that Delphic system.

3 The first point, Mr~Rhodes, arises from questions on  
4 day 8, which was Tuesday.

5 Sir, I have noted my microphone seems to be very  
6 echoey today. I don't know if anything can be done.

7 MR BOYLAND: I wonder if everybody else can make sure theirs  
8 are turned off. That might help.

9 MR HUMPHRIES: Ah! That one was on.

10 The questioner was Mr Hill. The first point relates  
11 to the issue of mitigation. Mr~Rhodes, is it material  
12 in this case when considering mitigation that this is  
13 a section 73 application?

14 A. Yes.

15 Q. We can see, and you were taken to a number of passages  
16 in different volumes of the environmental statement,  
17 that what was considered was "additional mitigation".

18 A. Yes.

19 Q. Let me take you to one of those volumes. There were  
20 several, but the approach is the same in every case.  
21 Look at CD/5, and the paragraph you were taken to was  
22 paragraph 13.1.1 on page 33. You were taken to that  
23 paragraph, but the only passage that was drawn to your  
24 attention was the very last sentence:

25 "No additional mitigation is, therefore, proposed to

1           that already in place."

2           Now by reference to the rest of that paragraph can  
3           you just assist the inspectors with the reason why no  
4           additional mitigation was proposed?

5    A.   Yes.   The reason being that there is also a substantial  
6           package of mitigation measures set out in two principal  
7           locations.   One is the existing planning consent of 2003  
8           and its section 106 agreement, and also in the  
9           additional controls imposed by the Secretary of State  
10          such that this is already a very well run and regulated  
11          airport, and I think it is probably fair to say that  
12          even those opposing find it hard to identify additional  
13          measures which could be taken to control the way in  
14          which the airport operates in this respect.

15   Q.   Now we know from Mr Harborough's evidence from last week  
16          that BAA in meetings had been pressing for discussions  
17          on any additional mitigation the Council might require  
18          for some considerable time before the decision was taken  
19          on 29th November, and you will remember he spoke of  
20          meetings in July and indeed thereafter.

21   A.   Yes.

22   Q.   We know also that between the application being made in  
23          April and that decision in November there were some  
24          seven months' elapse of time.   Would you have expected  
25          an authority acting reasonably with that time available

1 to it to have started and entered discussions with  
2 an applicant in order to identify any additional  
3 mitigation which it thought appropriate?

4 A. Absolutely. My own perspective of this is that the  
5 officers are obviously very familiar with the mitigation  
6 package which they helped to negotiate in 2002 and 2003,  
7 and I think it is telling people today the District  
8 Council is not able to advise BAA what further  
9 mitigation it thinks is necessary, perhaps because  
10 simply it is difficult to divine if any further  
11 mitigation is necessary in view of the effects of the  
12 development which are set out and substantially agreed  
13 in the environment statement.

14 That may be a controversial thing to say, but  
15 I think in terms of the noise contours and the change in  
16 the air quality effect, for instance, the technical  
17 information is substantially agreed and therefore it is  
18 difficult to define additional mitigation, which is why  
19 BAA's package, as I explained yesterday, is based  
20 principally on rolling forward that which was agreed in  
21 2003, and Mr Mitchell said in his evidence that he was  
22 aware that that was BAA's position, that the mitigation  
23 package was that previously set out together with  
24 matters recommended in the environmental statement. If  
25 the District Council had thought that was inadequate,

1           certainly in my judgment and experience the District  
2           Council should have said so and should have been keen to  
3           enter into discussions with BAA to identify to BAA what  
4           it was that it wanted, but more than twelve months after  
5           the application was submitted we still don't know and  
6           that's a very unusual position.

7    Q.   Where there have been discussions at a technical level  
8           since the decision, and I have in mind in particular the  
9           meeting of the experts relating to air noise and water  
10          resources, what then has been the result of those  
11          meetings?

12   A.   It's been relatively straightforward to agree  
13          conditions.  Certainly the expert meeting on air noise  
14          I attended largely as an observer, but I was obviously  
15          keen to understand the position of the District Council.  
16          That was the first occasion on which noise conditions  
17          were suggested and that resulted in the evidence given  
18          by Mr Charles that those noise conditions were  
19          acceptable to him.

20   Q.   You said "by Mr Charles".  Do you mean Mr Charles?

21   A.   I do mean Mr Charles.  In his evidence, yes --

22   Q.   Sorry.

23   A.   -- he identifies that those conditions would be  
24          acceptable.  Similarly in relation to water, as soon as  
25          instructive discussion could be held, the conditions

1 were readily agreed between the parties. If we had had  
2 a similar approach in relation to other issues, I would  
3 expect it would be the same. Certainly no lack of  
4 willingness on behalf of BAA to do what it could do to  
5 avoid the need for this Inquiry.

6 Q. The second issue relates to the RSS and the ATWP and the  
7 relationship between them. The point was put to you  
8 that the RSS does not allocate a maximum use of the  
9 runway. Can you just explain to the inspectors your  
10 view on the relationship between the ATWP and the RSS  
11 and the status of the ATWP proposals in the RSS?

12 A. Yes. Thank you. Paragraph 1.3 of the proposed changes  
13 to the RSS is not something I think the Inquiry has  
14 looked at so far and it goes directly to your question,  
15 and it explains that RSSs complement and generally do  
16 not repeat international planning policies on a wide  
17 range of topics which are set out in PPS's circulars and  
18 other government statements, including white papers such  
19 as that on the future of air transport.

20 I think we know this. I mean, there really isn't  
21 anything in the point that the RSS doesn't have a policy  
22 saying there should be maximum use of the runway,  
23 because it doesn't need to, as the panel have observed,  
24 because that is national policy, and it isn't the  
25 function of RSS to repeat national policy.

1           Perhaps importantly in this case it is also not the  
2           function of RSS to question national policy. There are  
3           two specific references to that. It is not just  
4           national policy to be taken into account, but both the  
5           ATWP -- I have a reference here paragraph, 4.27, but  
6           also I recall PPS/11, annex B, paragraph 24 is precise  
7           on the point that this statement of government policy is  
8           to be reflected in RSS, not just taken into account, but  
9           it is essential that planning policy incorporates and  
10          develops national policy set out in the Air Transport  
11          White Paper, such is the importance of this statement of  
12          national policy.

13           So short of -- it doesn't need a policy, but it goes  
14          much more deeply than that in that as a result the  
15          assumed development of Stansted, both the maximum use  
16          and the second runway, is integral to the strategy of  
17          the RSS.

18           We see that, for instance, in policy E1, which sets  
19          out the jobs requirement for central and north Essex.  
20          One I find very helpful reference in the proposed  
21          changes -- we don't need to look it up now, but for the  
22          record it is page 69. It is the Secretary of State's  
23          schedule of decisions on the panel recommendations. It  
24          explains that because of the growth of Stansted Airport,  
25          the Secretary of State is adding -- from a figure which

1 would have been 21,000 jobs for central and north Essex,  
2 he is adding further jobs so that the figure becomes  
3 42,000.

4 That then gets taken forward into policy E1 and is  
5 very important not just to the achievement of the  
6 economic objectives of the RSS but to the balance  
7 between employment and housing, so that the strategy of  
8 the RSS is frustrated if Stansted does not expand and  
9 relies upon its expansion. So it goes much more deeply  
10 than whether it has a policy or not. It is now  
11 a fundamental part of the strategy and we have seen,  
12 just lastly -- sorry -- it is also fundamental to the  
13 regeneration of Harlow, which is a key objective of the  
14 RSS that the airport should expand.

15 Q. Third point. You were asked a little later about need  
16 and benefits and it was said that your proof had looked  
17 at them under different headings and that they were  
18 separate matters. You said that you didn't see it that  
19 way. They were very closely related. Can you just  
20 explain for the inspectors exactly what you mean by that  
21 and the implications of that?

22 A. Yes. I think it was in the context -- perhaps I am  
23 forgetting -- a distinction between demand and need, for  
24 instance. Clearly not all demands are to be satisfied  
25 through planning policy, but where the satisfaction of

1 a demand brings with it substantial benefits, then it  
2 becomes a need, which planning policy wants to satisfy,  
3 and it is because the satisfaction of the need generates  
4 substantial benefit that it has been incorporated into  
5 national policy as a need to be met, and those needs --  
6 we had quite a lot of discussion about the economic  
7 benefits and a lot of discussion about the calculation  
8 precisely of the net user benefits, but I hope my  
9 evidence is clear that the government attaches a far  
10 greater importance to ensuring global connectivity and  
11 the growth in aviation than just to the net user  
12 benefits. There are the much wider range of economic  
13 benefits but there are also the social benefits which  
14 are identified clearly in the white paper and progress  
15 report, which, because they are benefits, they all  
16 contribute to the strength of the need which the  
17 government has concluded.

18 Q. Point 4. You were asked by Mr Hill at a later stage  
19 about user benefits and the user benefits of  
20 G1 identified in the Air Transport White Paper. The  
21 point was put to you that not all benefits are identical  
22 for each of the proposals in the Air Transport White  
23 Paper. You said that was generally true. Are, of  
24 course, all the costs identical for every proposal in  
25 the Air Transport White Paper?

1 A. No, they are not. That's one of the reasons why the  
2 maximum use scenario generates the greatest benefit cost  
3 ratio in that the benefits can be achieved with  
4 relatively little cost, although in character they are  
5 the same benefits in broad terms, for instance, that  
6 would be achieved at Stansted as compared to other  
7 airports in the south-east with the probable exception  
8 of Heathrow, but certainly the evidence has identified  
9 that the profile of activity in Stansted (a) was  
10 completely, of course, known to the government at the  
11 time of the white paper and, secondly, is comparable to  
12 that of other airports which are also supported for  
13 expansion in the white paper.

14 Q. Point 5. In your previous answer when I put to you my  
15 point 3 about the need and benefits, you referred to  
16 wider benefits. I want to ask you now about that. Your  
17 attention was drawn to your appendix 1. Perhaps we  
18 could look at that. That is in BAA/1/C and in  
19 particular paragraph 3.2.18 and 19.

20 Now we have, as has been discussed at some length  
21 over the last few days, a quantification of the user  
22 benefits, but how do they fit into the context of the  
23 wider economic benefits of an increase in capacity at  
24 Stansted?

25 A. These paragraphs of the appendix suggest that if it was

1 possible to calculate the wider benefits, they may be in  
2 the region of a factor of four greater than the  
3 calculated net user benefits. I don't know if it helps.  
4 It may not. I will explain my understanding of this,  
5 which is that the user benefits is the traditional way,  
6 the recommended way of assessing the utility of the  
7 piece of infrastructure. Is it going to be useful to  
8 the people that use it? Is the benefit to them going to  
9 be greater than the cost of providing it, and if it is,  
10 that generally represents a good piece of  
11 infrastructure, which can be taken forward for  
12 investment purposes, particularly to meet government  
13 criteria for investment.

14 As it happens, this type of infrastructure has  
15 a much greater consequence than that in that its  
16 principal role is to facilitate enhanced economic  
17 activity for others, and as a result it generates wider  
18 economic benefits that go far beyond and are much more  
19 significant than its user benefits.

20 Q. Thank you for that. Then the next point, number 6. You  
21 were asked questions about the treatment of economic  
22 issues in the ES and, on the other hand, in your  
23 appendix 1, and the line of questioning sought to  
24 understand why user benefits were included in your  
25 appendix 1 but not in the relevant volume of the

1 environmental statement. Can you just explain to the  
2 inspectors the reason for that and the roles of those  
3 two documents?

4 A. Yes. The environmental statement is concerned with  
5 identifying significant environmental effects. To the  
6 extent those can manifest themselves locally, they were  
7 addressed in the environmental statement. So that  
8 included a consideration of employment and a discussion  
9 of the potential impact on urbanisation and a discussion  
10 on the potential impact of the regional economy.  
11 Calculation of user benefits was something which  
12 I actually asked TRIBAL if they would do, because  
13 I thought it would be helpful to show to the Inquiry  
14 what the government had done in assessing the wider  
15 economic effects of the development as part of its work  
16 towards the Air Transport White Paper. The user  
17 benefits would not strictly be identified as  
18 environmental effects.

19 Q. Point number 7 then relates to the apportionment of user  
20 benefits by TRIBAL in your appendix 1, and the point was  
21 put to you that the document supporting the Air  
22 Transport White Paper had identified the user benefits  
23 of maximum use for three airports: Stansted, Luton and  
24 Gatwick, and that the given was a figure for the three  
25 airports as a whole and not for each of them

1 individually. We know there was then an apportionment  
2 made by TRIBAL.

3 Can you just explain to the members if you have this  
4 information -- and if you don't, so be it -- in broad  
5 terms what are the business passenger percentages at the  
6 three airports both now and indeed looking forward into  
7 the future that allow such an apportionment?

8 A. I have some of that information. I have a note that the  
9 CAA 2005 figures for Gatwick business percentage was  
10 17.4%. I believe that the master plan for Gatwick  
11 projects in the future that will be 17%, and that the  
12 CAA figures for Luton for 2005 are 19.6% and that the  
13 CAA figures for Stansted in the same document, 2005, are  
14 18.4%. I know that the Stansted forecast, that will go  
15 to 18.8% with G1. They are very much of the same order.

16 Q. So what does that tell us about the appropriateness of  
17 TRIBAL having looked in effect at the user benefit of  
18 each MPPA of maximum use capacity as an average and then  
19 applying that to the additional 10 MPPA being applied  
20 for at Stansted in relation to G1? Was that  
21 an appropriate exercise?

22 A. It tells me it was a fair exercise. Arguments could be  
23 made I think to suggest that that was a conservative  
24 apportionment to Stansted, but a straight  
25 line apportionment was a fair thing to do.

1 Q. Then I am going to move on to point 8. You were asked  
2 some questions about the additional number of business  
3 passengers between the constrained 25 MPPA case in 2014  
4 and the 35 MPPA case in 2014 and that the number of  
5 additional business passengers between those two cases  
6 was 300,000. You answered:

7 "Yes, 300,000 business trips."

8 Now what do you mean by that?

9 A. I simply meant to say that 300,000 sounded to me like  
10 a lot of business trips. 300,000 business trips  
11 suggests substantial economic activity and is in itself  
12 a substantial gain. I know that it has been projected  
13 in percentage terms being a small percentage of the  
14 increment, partly due to the sort of artificial way in  
15 which the environmental assessment has to look at the 25  
16 MPPA case and 35 MPPA case, but even on that basis the  
17 increment is substantial. We are talking about 35 MPPA.  
18 We are talking about 5.5 million business trips as  
19 compared, for instance -- one of the points was put  
20 earlier in the enquiry that the Council had not seen any  
21 benefits since 2001, these illusory benefits. The  
22 figure in 2001 was 2.7 million. We are talking about  
23 a very substantial growth in business activity through  
24 Stansted.

25 Q. On that point could I ask you to have out CD/8, which is

1 the economic effects volume of the environmental  
2 statement? Turn, please, to table 4 on page 9. We can  
3 see there the figure for business passengers in 2014 for  
4 the 25 MPPA case and the 35 MPPA case, and in that  
5 table also for 2004, and we can see by examining the  
6 table that business passengers go up from 3 million in  
7 2004 to in the constrained 25 MPPA case 5.22 million and  
8 in the 35 MPPA case 5.5 million, which gives us that  
9 difference of 300,000. You can see also that the number  
10 of leisure passengers as between 25 and 35 MPPA cases  
11 rises faster.

12 Now what happens in the constrained 25 MPPA case  
13 when the airport's growth is limited by condition? What  
14 happens to the growth in passengers?

15 A. Well, it is obviously stopped. It is stopped by the  
16 condition in that scenario. One of the consequences  
17 would be that prices would be likely to rise both for  
18 leisure and business passengers.

19 Q. And what does that then do to the numbers of business  
20 passengers and leisure passengers in relative terms as  
21 prices rise who continue to travel?

22 A. As prices rise relatively speaking businesses continue  
23 to travel up to the point of 5.22 million, but at  
24 a higher cost and the expense of some leisure travel.

25 Q. Right. So the business travellers continue to travel up

1 to the extent of 5.22 million, but at a higher cost, but  
2 what does that tell us about economic effects and the  
3 economic effect in the 25 MPPA case?

4 A. It represents a direct cost to business as well as  
5 a direct constraint on business activity.

6 Q. Of course, when the 25 MPPA constraint is lifted, what  
7 then happens to the overall levels of demand? Sorry.  
8 Not demand; the overall levels of throughput?

9 A. When the constraint is lifted, throughput increases,  
10 which suggests that there had been suppressed demand.  
11 Throughput increases and cost would reduce.

12 Q. In those circumstances is it surprising that the  
13 difference between the 25 MPPA case which is constrained  
14 and the 35 MPPA case which is not constrained by  
15 condition leads to 300,000 increased business passengers  
16 out of a total increase which is much higher?

17 A. No.

18 Q. I move on to point 9, regeneration of Harlow. You were  
19 asked questions about the effect of G1 on the  
20 regeneration of Harlow and you drew attention in general  
21 terms to various initiatives that BAA already has to  
22 encourage employment and indeed links with the local  
23 business community.

24 Has the local planning authority suggested to BAA  
25 any focusing of its existing initiatives to particularly

1 encourage regeneration in Harlow?

2 A. Do you mean Uttlesford District Council?

3 Q. Uttlesford District Council.

4 A. Not as far as I am aware, not beyond those initiatives  
5 which are already in place.

6 Q. Is the focusing of those existing initiatives towards  
7 assisting regeneration in Harlow the sort of thing that  
8 one might reasonably expect authorities to seek?

9 A. Yes, yes. I am aware that Harlow Council's  
10 representation on the G1 application suggested that may  
11 be a sensible thing to do, and I think there is a clear  
12 steer from the Secretary of State through the proposed  
13 changes to the RSS that she is anticipating that  
14 Stansted and Harlow will have a much closer relationship  
15 in the future. The reference again is the one that  
16 I gave earlier. It is page 69 of the proposed changes.  
17 We know that because of Stansted the number of jobs  
18 allocated to Harlow went up by 10,000. We also know  
19 from that page that there is an expectation of  
20 an increasing number of Harlow residents finding work at  
21 Stansted. So Harlow and Stansted's futures are closely  
22 linked, and I anticipate they will be working even more  
23 closely together in the future.

24 Q. We know that Stansted is described in a number of places  
25 as an economic engine in the region. Is there any

1 responsibilities on the local authorities to try to  
2 harness the benefits of that economic energy?

3 A. Absolutely there is. If it needed to be said, it is set  
4 out in the regional economic strategy, goal 6, direct  
5 encouragement to planning authorities to make the most  
6 of the opportunities which the expansion of Stansted  
7 generates. As I have said, the refusal of planning  
8 consent in this case is directly contrary to that  
9 exhortation of the planning authority, and I have said  
10 in my evidence it seems to me extraordinary that part of  
11 the justification relates to a concern that there are no  
12 economic or insufficient economic benefits when what the  
13 District Council should be doing is harnessing the  
14 growth potential of Stansted and maximising it and  
15 directing it.

16 Q. Point number 10. A lot of questions about quality of  
17 life assessment. Can I just ask you to have to hand the  
18 Council's scoping opinion, CD/24?

19 A. Does 24.1 cover it?

20 Q. No, 24, I am afraid. I am going to invite you to look  
21 at that in a moment, but I will just remind you of the  
22 essence of reason for refusal 3, which was one of those  
23 dealing with the absence of quality of life assessment,  
24 and the point that reason for refusal was focused upon  
25 was the effects on the cohesion of local communities

1           caused by pressures on the nature and character of  
2           residential accommodation.

3           Now just look, if you would, at the scoping opinion,  
4           CD/24, and turn to page 3. There is a box in the  
5           middle. We can see in the right-hand box it does talk  
6           about a quality of life assessment, but can we see in  
7           the left-hand column what it was that we were being  
8           asked to consider: providing a complete picture of the  
9           impacts of the airport expansion on the environment,  
10          concentration on gathering information that can be  
11          immediately interpreted empirically, understanding of  
12          the social importance of the environment and assessment  
13          of why the environment matters.

14          Were we, in fact, asked for any assessment of social  
15          cohesion of the local communities caused by pressures on  
16          the nature and character of residential accommodation?

17   A. Not within the scope of the suggested quality of life  
18      assessment, no.

19   Q. Even if we were to look at it in the later regulation 19  
20      request, CD/39 -- perhaps you had better have that out.  
21      Do you want to take my copy?

22   A. Thank you.

23   Q. That's the regulation 19 request. On page -- you will  
24      have to tell me.

25   A. Schedule A, first page I think of schedule A.

1 Q. We were in that document again asked for a quality of  
2 life assessment and for the first time it does refer to  
3 social cohesion, but again was BAA directed to this  
4 being an issue related to the nature and character of  
5 residential accommodation?

6 A. No. What was requested was a quality of life assessment  
7 compliant with the countryside agency advice and the  
8 issue which it was said to be necessary for was  
9 a description of the likely significant effects of the  
10 development on the environment.

11 Q. And in the right-hand column I think you need to look as  
12 well.

13 A. "Representations suggest that there are significant  
14 effects on community cohesion and local assets that are  
15 regarded as important" is all that it says.

16 Q. So again any direction that what the Council were  
17 interested in was the nature and character of  
18 residential accommodation and the changes to that?

19 A. No.

20 Q. Now, of course, although BAA has been criticised for not  
21 producing a quality of life assessment, it did carry  
22 out, did it not, pre-application consultation? Can you  
23 just look at the consultation report? That is CD/26.  
24 Firstly, what is your view of the adequacy and scope of  
25 this pre-application consultation exercise?

1 A. I wasn't involved at the time, but I think it is  
2 excellent, possibly one of the best consultation  
3 exercises I have seen.

4 Q. And in that report there are sections we can see that  
5 deal with, at 27, jobs, housing and the economy. That's  
6 on page 27.

7 But in this exercise consultation did social  
8 cohesion emerge as an important issue in the local  
9 community?

10 A. No. My impression of this is that it arose late in the  
11 day as a result of the report from SSE, The Erosion of  
12 the Community, and then became almost a banner under  
13 which the opposition started to gather to the  
14 development.

15 Q. Now I am going to move on to point 11. We are now still  
16 on that first day, Tuesday, but I am moving to questions  
17 by Mr Stinchcombe. Before I deal with point 11,  
18 however, it has been drawn to my attention a point on  
19 the transcript that I would like you to clarify. It is  
20 on the transcript as printed out in the Word version for  
21 Tuesday, 12th on page 201 in an answer starting at  
22 line 17, when you were being asked about the balance of  
23 environmental or residential amenity harm against the  
24 evidence of need or benefits, and you say in part of the  
25 answer:

1            "I do think the sensitivity tests that were  
2            undertaken to 40 MPPA identified harm sufficient to  
3            warrant the imposition of the condition",

4            the point being you do think the sensitivity tests  
5            identified sufficient harm. I just want to see if you  
6            can confirm whether the transcript has correctly  
7            recorded your answer. It is a bit difficult to do it  
8            without seeing it and I am just keen --

9            A. I have deliberately not read the transcript and people  
10            will have their own note of what I said.

11           Q. Yes, we do.

12           A. If I said that, then I said that. It doesn't happen to  
13           be my opinion.

14           Q. Sir, I am trying desperately not to lead. I think it is  
15           a straight error on the transcript.

16           MR PHILLIMORE: Just to confirm a point -- obviously we have  
17           got our notes. Just to confirm the transcript is not  
18           an enquiry document as such. At this stage we have not  
19           got access to the transcript of that particular day you  
20           are referring to.

21           MR HUMPHRIES: Thank you, sir. I put that point to one  
22           side.

23           I come then to my point 11, which arises in the  
24           context of Mr Stinchcombe's questions. It was a point  
25           that was canvassed in relation to that extract in his

1 witness Levett-Therivel's evidence, SSE/2/5, relating to  
2 cumulative impact. It might be helpful if you have it  
3 so you can see the point. SSE/2/5. It is  
4 paragraph 3.1.1 on page 5.

5 MR BOYLAND: Did you say 3.1.1?

6 MR HUMPHRIES: 3.3.1. I probably did, but it is 3.3.1.

7 Now, Mr~Rhodes, I think it is common ground that the  
8 words in italics are not part of current UK regulations  
9 or indeed so far as I am aware guidance, but let's just  
10 take the words at face value. They are that:

11 "Cumulative impacts are impacts on the environment  
12 that result from incremental changes to environmental  
13 parameters when added to changes brought about by other  
14 past, present or reasonably foreseeable actions."

15 Now in that context and thinking of the current  
16 application, what would be the incremental change?

17 A. The incremental change is the change from 25 to 35 MPPA.

18 Q. Right, and "added to changes brought about by other  
19 past, present or reasonably foreseeable actions", what  
20 is the past action against which you judge the  
21 incremental change?

22 A. It represents the baseline that has been used for the  
23 environmental statement.

24 Q. Do you understand there to be anything inconsistent  
25 between the approach adopted in the environmental

1 statement and that contained in this quotation?

2 A. No.

3 Q. Thank you. Point 12.

4 MR BOYLAND: Before you move on to that, Mr Humphries, will  
5 you just bear with us for a moment? Forgive me.

6 Mr Stinchcombe asked earlier whether we would take  
7 questions from other people. Certainly so far as the  
8 members of the public generally the answer that we gave  
9 still stands, but simply because this is not an open  
10 forum which is open to anyone in that sense, but it does  
11 occur to me that on reflection in the interests of  
12 fairness I should allow questions from anybody who  
13 themselves will be appearing at the Inquiry in the  
14 future. Do you know if that applies to any of those who  
15 wish to ask questions today?

16 MR STINCHCOMBE: Sir, I don't. I am simply reporting what  
17 has been told me, that there were people in the  
18 audience, who may or may not be giving evidence, who had  
19 additional questions and thought they had not been asked  
20 and, not being necessarily represented by one of the  
21 opportunities, wanted to have an opportunity to ask  
22 them.

23 MR BOYLAND: I wonder if I could say if there is anybody in  
24 the audience who wishes to ask a question who will be  
25 later appearing in the Inquiry, would they put their

1 hand up. Just one. Thank you. Would you mind if we  
2 can hear that question now, Mr Humphries? I am sorry to  
3 interpose it in the middle of your re-examination. Of  
4 course you will have the opportunity to re-examine on  
5 that even if it is a topic you have already covered.

6 MR HUMPHRIES: Of course, sir. In fact, this was a good  
7 point to break.

8 If there is anyone who has left who wanted to ask  
9 a question, if they were to put that in writing, I am  
10 sure Mr~Rhodes would be happy to reply in writing with  
11 an answer, sir, so that no-one felt disadvantaged.

12 MR BOYLAND: I trust that you would extend that invitation  
13 to anybody else who is still here who wishes a put  
14 a question but is not themselves appearing at the  
15 Inquiry.

16 MR HUMPHRIES: Anyone, sir, who is here who you are going to  
17 allow to ask a question?

18 MR BOYLAND: I mean anyone else who is here from whom I am  
19 not allowing questions.

20 MR HUMPHRIES: Sir, that's really a matter for you. What  
21 I wanted to avoid was any procedural problem with you  
22 having said you were not allowing people to ask  
23 questions and they have now gone away and missed the  
24 opportunity.

25 MR BOYLAND: I think only one or two people, apparently

1 a mother and child, have left I think since that point  
2 as far as I am aware, but thank you for the offer  
3 anyway.

4 Would the lady who did want to ask a question like  
5 to come to the table at the front here? There is  
6 a microphone you can use.

7 Questions from THE AUDIENCE

8 MS DEBBIE BRYCE: I only wanted to ask those two questions  
9 that I submitted earlier.

10 MR BOYLAND: Oh, they were yours.

11 MR PHILLIMORE: Do you need your piece of paper?

12 MS DEBBIE BRYCE: No, you can read it out for me.

13 MR BOYLAND: We think we have the answers for them, but in  
14 the circumstances we will put them to Mr~Rhodes and we  
15 will see.

16 MS DEBBIE BRYCE: There was one other question that has  
17 arisen, which is simply: where does the baseline start?  
18 Does it start from 1985 or whenever it was Graham Eyre  
19 made his statements? At what point do the increments  
20 start ticking?

21 MR BOYLAND: Could you answer that, Mr~Rhodes?

22 A. Yes. The baseline is composed from survey information  
23 which is as up-to-date as it can be. So it represents  
24 as far as it can today's condition. So that development  
25 which, for instance, has taken place since 1985 forms

1 part of today's baseline and from that the impact of the  
2 additional development now proposed is projected and  
3 assessed.

4 MS DEBBIE BRYCE: So what is the date of the baseline then?

5 A. I am sorry. I just missed that.

6 Q. What is the date of the baseline?

7 A. I am just referring to volume 1 of the environmental  
8 statement.

9 MR HUMPHRIES: Sir, it may help with this. Mr~Rhodes is  
10 answering the question very precisely. There is  
11 a distinction drawn between the baseline and the base  
12 case. I am sure the questioner will not know that, but  
13 she may want to understand as well as the baseline what  
14 is the base case. The two are different.

15 MR BOYLAND: Would you care to explain the difference?

16 MR HUMPHRIES: Yes. The baseline, sir, relates to the most  
17 recent actual data we have, survey data. What is  
18 sometimes called the base case in this case is the 25  
19 MPPA case against which the 35 MPPA case is assessed,  
20 but the question was: what is the baseline?

21 MR BOYLAND: Yes. Thank you.

22 A. The baseline is 2006, the date of the environmental  
23 statement that was submitted in so far as it was  
24 available to the people who wrote the environmental  
25 statement to have the most up-to-date information, but

1 each chapter of the environmental statement sets out the  
2 way in which evidence has been gathered to make it as  
3 up-to-date as it could be as at April 2006, when it was  
4 submitted.

5 MR HUMPHRIES: Sir, you will see this distinction in  
6 volume 1 of the environmental statement, CD/4.  
7 Paragraph 1.1.11 describes the baseline, 1.1.12, the 25  
8 MPPA case and 1.1.13, the 35 MPPA case.

9 I hope the questioner will excuse me for cutting  
10 across her. There is no rudeness intended. I am just  
11 trying to make sure we have got the figures.

12 MR BOYLAND: I think it is fair to say, Mr~Rhodes, that some  
13 of the individual data used in the baseline is earlier  
14 than 2006.

15 A. Yes, it is, sir.

16 Q. You are saying it was the latest data that was available  
17 at 2006?

18 A. That's absolutely correct.

19 Q. Does that cover that point?

20 MS DEBBIE BRYCE: Well, I am probably looking at this too  
21 simplistically, but when talking about --

22 MR BOYLAND: This is your opportunity simply to ask  
23 questions. If you have more questions on that point, by  
24 all means. If not, then the time to make any comments  
25 on it will be when you present your own evidence.

1 MS DEBBIE BRYCE: Sure.

2 MR BOYLAND: Would you like me to read your other questions?

3 I think, Mr~Rhodes, you read them before, so they will  
4 not be completely new to you. Just to go through them,  
5 is it the case that the additional car parks, buildings  
6 and lighting necessary for an increase from 25 MPPA to  
7 35 MPPA has not been assessed for its environmental and  
8 quality of life impacts in the same way as additional  
9 ATMs and passengers?

10 A. The answer to that is no, that it's not right in that  
11 the environmental assessment has been undertaken of both  
12 the physical development and the effect of increased air  
13 transport movements, so that the development applied for  
14 is that which was approved in 2003, which are a range of  
15 facilities which are described in the environmental  
16 statement and the planning statement. So their effect,  
17 for instance, on Archaeology has been assessed, their  
18 visual effect has been assessed, and the traffic effect  
19 of their use has been assessed as well as the effect of  
20 increased use of the runway. So the intention has been  
21 to assess them equally.

22 MR PHILLIMORE: The second question is: if Hatfield Forest  
23 contains fauna of European importance, what are they and  
24 will appropriate assessment be conducted upon them?

25 A. What are they is contained in the section that we looked

1 at this morning in the nature conservation section of  
2 the environmental statement, but from memory only they  
3 refer to certain types of lichen within the woodland.  
4 Whilst the lichen are identified there as being of  
5 European importance, the site does not have  
6 a designation -- Hatfield Forest does not have  
7 a designation itself of being of European importance,  
8 and that is the reason why an appropriate assessment  
9 within the European habitats regulations is not  
10 required.

11 MS DEBBIE BRYCE: Thank you.

12 MR PHILLIMORE: Thank you very much. It is 1 o'clock now.  
13 What number have we got to, Mr Humphries, just to keep  
14 on track?

15 MR HUMPHRIES: Sir, we were just coming on to 12, but it is  
16 quite a good place to break, if you want to, because  
17 this is now starting day 9, ie Wednesday.

18 MR PHILLIMORE: 43 there were altogether?

19 MR HUMPHRIES: 43, sir.

20 MR PHILLIMORE: Thank you very much. We will now take  
21 a break and adjourn until 2 o'clock. Thank you.

22 (1.00 pm)

23 (Luncheon adjournment)

24 (2.00 pm)

25 MR PHILLIMORE: Good afternoon. We are now resuming

1 proceedings. Mr Humphries?

2 Re-examination by MR HUMPHRIES (cont.)

3 MR HUMPHRIES: Mr~Rhodes, good afternoon.

4 A. Good afternoon.

5 Q. Mr~Rhodes, we are now going to cast our minds back to  
6 Wednesday, that is day 9, 13th June. We are still in  
7 the cross-examination of Mr Stinchcombe and we are going  
8 to turn to point number 12 in my list. The question  
9 that was asked of you that I am interested in related to  
10 a comparison between the additional capacity being  
11 provided as part of the G1 project and the current  
12 throughput at Luton.

13 The point was put that the G1 capacity was actually  
14 more than the throughput currently at Luton. I just  
15 want to explore that. Of course, in order to provide  
16 that additional 10 MPPA worth of capacity at Stansted is  
17 it necessary to replicate anew all the infrastructure at  
18 Luton; in other words, is there a need for an additional  
19 runway, additional terminals, other facilities of that  
20 sort?

21 A. No. It simply involves making best use of existing  
22 infrastructure. There is, of course, some new  
23 development that is likely to come forward with 35 MPPA,  
24 but that is incremental, a lot of it relatively small  
25 scale development compared to the type of infrastructure

1           that is necessary in the first instance to establish  
2           an international airport.

3    Q.   Now what does that tell you about the value -- and  
4           I don't mean financial value; I mean environmental value  
5           -- of maximising the use of existing airport capacity as  
6           opposed to building entirely new airports?

7    A.   It tells me, as does the Air Transport White Paper, that  
8           making maximum use of existing infrastructure is the  
9           most sustainable approach to increasing the aviation  
10          capacity of the UK and it would be a bizarre outcome  
11          I think if it was decided to halt the growth of Stansted  
12          but then have to build, for instance, another Luton  
13          Airport by taking fresh land in a different part of the  
14          country, because the aviation capacity need would not be  
15          met at Stansted.

16   Q.   Turning to point 13 then, which is again still with  
17          Mr Stinchcombe, he was asking you questions about air  
18          noise and the 16 hour LEQ matrix and the 57 DBA contour  
19          and the criticisms of that approach made by the  
20          inspector at the Terminal 5 Heathrow Inquiry. Now did  
21          the Secretary of State in relation to the Terminal 5  
22          development impose an air noise condition?

23   A.   Yes.

24   Q.   And what matrix was used to control noise in that  
25          condition?

1 A. 57 DBA on a 16 hour LEQ contour.

2 Q. Did the Secretary of State also in that decision impose  
3 an ATM condition?

4 A. Yes.

5 Q. Are both of those proposed here?

6 A. Yes.

7 Q. I move on to point 14. You drew attention at one point  
8 -- and again questions from Mr Stinchcombe -- to the Air  
9 Transport White Paper at paragraph 11.25. Could you  
10 just have that to hand?

11 MR SMITH: I am so sorry. 5.25?

12 MR STINCHCOMBE: 11.25.

13 MR HUMPHRIES: 11.25. Sorry.

14 At various points you have been asked -- do you have  
15 that?

16 A. Yes. Thank you.

17 Q. You have been asked about the 57 contour and issues are  
18 also raised about the relevance or otherwise of the  
19 existing contour condition imposed at Stansted, that is  
20 condition AN1. Looking at paragraph 11.25, does that  
21 tell us anything about the relevance that the Secretary  
22 of State draws about the comparison between the forecast  
23 area of the 57 condition with the maximum use of the  
24 runway and the condition set on the recent 25 MPPA  
25 planning permission?

1 A. Yes. It tells us that the Secretary of State  
2 considered, based on the analysis which had been set out  
3 in the SERAS assessment, that the contour limit for 35  
4 MPPA was assessed to be the same as the contour limit  
5 set in the recent planning consent.

6 Q. And what do we now know about the forecast contour and  
7 indeed the condition that is being offered in relation  
8 to that contour for G1?

9 A. We now know, and it is agreed, that the contour would be  
10 smaller than that referred to in this paragraph.

11 Q. Is that material to the decision?

12 A. Yes. It must be material to the decision. I think when  
13 we have been exploring the balance between need and  
14 effects, I have accepted, of course, the need to  
15 undertake environmental assessment for the planning  
16 application, but I also refer to the fact that there is  
17 some clear guidance in the Air Transport White Paper as  
18 to the likely scale of impact that is acceptable --  
19 considered to be acceptable by the government in  
20 formulating its policy, and in so far, therefore, as the  
21 assessment effect is less than that which the white  
22 paper assumed that it would have been, it then to my  
23 mind makes it extremely difficult to understand how the  
24 noise impact of 35 MPPA could be a legitimate reason for  
25 refusal.

1 Q. Point 15. You were asked again by Mr Stinchcombe about  
2 quality of life and whether that was a material planning  
3 consideration. You made the point that it would depend  
4 and it would depend on the scale.

5 Just considering quality of life, we know from the  
6 Air Transport White Paper and indeed the progress report  
7 that there are social benefits of air transport to those  
8 travelling. If one is to consider quality of life  
9 issues in relation to those who suffer impacts of air  
10 transport, is it also appropriate to take into account  
11 the benefits to those who experience the air transport,  
12 the travellers?

13 A. It must be. I mean, it certainly is relevant to take  
14 into account the social benefits of increased aviation,  
15 and to be sure that they are not underestimated, they  
16 are specifically referred to in the Air Transport White  
17 Paper on page 166, page 164, page 172, and also in the  
18 progress report at paragraphs 1.1 and 1.10.

19 It is clear that the government attaches significant  
20 importance to the benefits of freedom of travel and  
21 opportunity which aviation brings both for -- the Air  
22 Transport White Paper identifies positive health and  
23 social benefits as well as the benefit of being able to  
24 experience other cultures, visit friends and family,  
25 relax, widen one's horizons. They are important

1 components to the quality of life for a huge number of  
2 people in this country and, of course, abroad.

3 Q. Now, Mr~Rhodes, that brings us to point 16, and I am  
4 pleased to say I am going to pass over point 16 to give  
5 the illusion of progress, if nothing else.

6 So let's move to point 17, a relatively short point,  
7 again still with Mr Stinchcombe. He drew attention to  
8 the date of the Air Transport White Paper and then to  
9 various policy statements, including PPS/1, since the  
10 date of the Air Transport White Paper. Is there any  
11 indication either in the progress report, the planning  
12 white paper and indeed anywhere else that the government  
13 has changed its policy as set out in the Air Transport  
14 White Paper?

15 A. No, there is none. The approach confirms that the  
16 government remains committed to the white paper and the  
17 planning white paper goes further and identifies in the  
18 most up-to-date way that the Air Transport White Paper  
19 is considered to be a national policy statement that  
20 will endure at least for the next three to five years  
21 before it is reviewed. My own view is that that is in  
22 part a testament to the quality of the process that led  
23 to its production.

24 Q. Point 18. You were asked about the climate change data  
25 produced in Mr Pratt's evidence and it was put to you

1 that this was relevant. Can we just look at Mr Pratt's  
2 evidence to see why that data was introduced? That's at  
3 BAA/4/A and 4/C you might also have to hand.

4 In the proof, which is BAA/4/A, can I just invite  
5 you to turn to paragraph 5.3.1? We can see there it is  
6 said that in the regulation 19 response BAA noted that  
7 the UK aviation contributes some 0.1% of global carbon  
8 dioxide and that the additional aircraft movements  
9 resulting from consent for G1 would be a small  
10 proportion of the total UK movements in 2014.

11 Then in the next paragraph he says he produces  
12 an estimate of the carbon dioxide emissions and sets  
13 these in a national, European and world context.

14 If the inspectors were to look at the tables in  
15 BAA/4/C and in particular the one on pages 5 and 6,  
16 which look at the emissions in a national and global  
17 context, they would see the scale of the emissions for  
18 the UK generally and G1.

19 Now when you told Mr Stinchcombe that that evidence  
20 was relevant, can you just explain for the inspectors'  
21 benefit what that relevance is to the Inquiry?

22 A. I think there are two things I would like to say. One  
23 is that it is certainly no part of my case at all that  
24 carbon emissions from aviation are unimportant and the  
25 enquiry will have heard me give a series of "Yes"

1           answers to questions on the importance of addressing  
2           climate change, and therefore a calculation of carbon is  
3           significant in that context, and I think it was put  
4           forward by Malcolm Pratt in an effort to be helpful so  
5           the facts could be available before the Inquiry, but  
6           what the calculation shows is precisely what was said in  
7           the regulation 19 response, that the increment from G1  
8           is very small indeed in a global context, and although  
9           people may feel it is unfair putting it into a global  
10          context, we are talking about global warming and the  
11          impact on the global environment, which is why I said in  
12          evidence that there will be no likely significant  
13          environmental effect. That's why it was legitimate for  
14          it not to be included in the environmental statement.  
15          So the evidence is relevant to the Inquiry to  
16          demonstrate that much.

17                 The figure has another significance, however, which  
18                 relates to the government's objective to reject carbon  
19                 emissions by 2050 and to do so principally through  
20                 fiscal means and through the emissions trading scheme.  
21                 I think the availability of the figure helps us realise  
22                 that it is very difficult for that figure to impact on  
23                 a planning decision, but the government through other  
24                 means is determined to ensure that aviation meets its  
25                 climate change costs and therefore there are other

1 regimes which address that, and indeed including  
2 aviation and emissions trading scheme clearly is  
3 intended to bring advantages both to set a price for  
4 carbon which puts clear incentives forward for aviation  
5 to reduce its emissions, but also until aviation can do  
6 that, to allow that price for carbon paid by aviation to  
7 sponsor reductions in carbon elsewhere. So that  
8 isn't -- it is important, but it is not strictly I think  
9 a planning consideration, because it is addressed  
10 through other means.

11 Q. Mr~Rhodes, that brings us to point 19, which is about  
12 Stern and indeed the government's approach to carbon  
13 reductions. Does Stern and/or government expect all  
14 sectors of the economy to reduce their emissions at the  
15 same time or at the same rate?

16 A. No, it doesn't. There is a completely clear recognition  
17 that aviation's emissions are likely to grow as  
18 a percentage of UK and global emissions. There is  
19 a direct acceptance of that in the Air Transport White  
20 Paper. I think the figure there is given that aviation  
21 may grow to become 25% of UK emissions, and it is  
22 recognised in that document, in the progress report and  
23 in the consultation on the emissions trading scheme that  
24 at present technology does not allow aviation to reduce  
25 its emissions. It is for that reason that aviation is

1 to be included in the emissions trading scheme so that  
2 the demand for aviation is harnessed to allow other  
3 sectors of the economy to reduce theirs.

4 What is interesting perhaps is, just to identify it,  
5 because I don't think it's been referred to at the  
6 Inquiry so far, just to give you the reference, on  
7 page 25 of the Air Transport White Paper there's a graph  
8 which forecasts aviation's carbon emissions and it shows  
9 an upward trend all the way to 2030, and despite we know  
10 continued projections of aviation growth after 2030, it  
11 shows a levelling off and then a slight reduction in  
12 aviation's carbon emissions, which is consistent with  
13 what was recorded in the Stern report, and in the  
14 government reports, both the report on global warming  
15 and aviation in February 2004 and the recent  
16 consultation of the emissions trading scheme, targets  
17 are being set. There are European targets, and the  
18 aviation industry is setting its own targets for  
19 significant deficiencies in carbon emissions, in oxides  
20 of nitrogen and indeed in noise and is making good  
21 progress towards those targets, but they are not  
22 immediately achievable. Stern identifies in relation to  
23 them that good progress is being made. They are  
24 challenging, but good progress is being made.

25 Q. Mr~Rhodes, that brings us to point 20. You were asked

1 by Mr Stinchcombe about the environmental audit  
2 committee's report on the emissions trading scheme. No  
3 need I think for you to get it out, but we had that at  
4 document SSE/21/C, the appendix. We can see there  
5 Parliament scrutinising the policy. I am sure no-one  
6 will mind me leading on this. We don't yet have the  
7 government's response to this committee's report, but  
8 where is the proper place for government policy to be  
9 scrutinised and challenged? Is it, in fact, Parliament  
10 or is it some other place?

11 A. No, it is in Parliament.

12 Q. Now, as I say, we haven't had the government's response  
13 and we will do in due time, but is it clear from that  
14 document that the issues are being actively considered,  
15 including what are perceived to be the drawbacks to  
16 phase one of the ETS?

17 A. Absolutely. I don't think anybody should doubt the  
18 government's commitment to these issues. I identified  
19 in evidence that the government is commended for taking  
20 a lead. We have seen that a number of the policy  
21 documents that were put to me are, in fact, testament of  
22 that. This is an issue that is right at the top of the  
23 government's agenda. It is being very actively  
24 addressed. The consultation on the emissions trading  
25 scheme is a document that certainly rewards a close

1 reading of it. It is a very well considered and very  
2 thorough document, a very deliberate and comprehensive  
3 approach to recognising, on the one hand, the vital  
4 importance of aviation to the national economy, and, on  
5 the other hand, the need to address matters of national  
6 and global sustainability.

7 Q. Now, Mr~Rhodes, in a further attempt to give the  
8 illusion of progress I notice that I have miscounted and  
9 my next point is 22. I will keep doing this. We will  
10 get there to 43.

11 MR PHILLIMORE: I think we are about halfway.

12 MR HUMPHRIES: There may not be 43 points along the way.

13 That's the only point.

14 MR BOYLAND: I just hope you haven't double counted too  
15 many.

16 MR HUMPHRIES: Point 22 in my note, Mr~Rhodes. There was  
17 then from Mr Stinchcombe a challenge to the user  
18 benefits as identified in that supplementary paper to  
19 the Air Transport White Paper and as examined in your  
20 own appendix 1 in relation to the level of user  
21 benefits, and two issues arose which I am going to ask  
22 you about. One was the appropriateness or otherwise of  
23 including foreign travellers in these benefits, and your  
24 attention was drawn to CD/390, which related to the  
25 green paper. The second point related to user benefits

1 and the level used in the SPASM model for business and  
2 leisure travel.

3 Take the first of those. The point was put to you  
4 by reference to CD/365, another environment audit  
5 committee report. Can you just have that out? The  
6 point was put to you by reference to paragraph 41, first  
7 of all, which refers to the Treasury's green book, and  
8 then the emboldened conclusion at paragraph 42 that:

9 "The Department for Transport has failed to follow  
10 the guidance issued by the Treasury, including in its  
11 economic appraisal the benefits accruing to foreign  
12 travellers."

13 Do you remember that point?

14 A. Yes, I do.

15 Q. It was in that context that your attention was taken to  
16 CD/390, and in particular paragraph 5.25, do you  
17 remember, and that footnote, footnote 4, and you were  
18 asked for your view on that. You said your view was  
19 that you were not an expert in this, but you didn't see  
20 why this excluded a consideration of benefits to non-UK  
21 residents.

22 A. Yes.

23 Q. Now in that context can I ask you to look at another  
24 document, one of the new CD documents, CD/391?

25 A. Thank you.

1 Q. CD/365 is a report of the environmental audit committee  
2 to which the government has responded, and CD/391 is the  
3 government's response. Therefore I want to just see  
4 what the government said about the environmental audit  
5 committee. You need to turn in the document to page 4  
6 and emboldened paragraph 9. You will see that  
7 emboldened paragraph 9 is paragraph 42 from the  
8 environmental audit committee report at CD/365. Do you  
9 see that?

10 A. Yes.

11 Q. Can you just look over the page to paragraph 5, page 5,  
12 to see what the government says about the environmental  
13 audit committee? I am not going to read it all into the  
14 transcript. Just let us have a look at that, Mr~Rhodes.  
15 What was the government's view of the point raised by  
16 the environmental audit committee?

17 A. The government didn't agree and explained that the  
18 inclusion of benefits accruing to foreign travellers is  
19 consistent with the green book guidance and, as I said  
20 earlier, if anything, underestimates the full economic  
21 benefits.

22 Q. Thank you for that, Mr~Rhodes. I am not going to ask  
23 you about other paragraphs in this document. Other  
24 parts of CD/365, the environmental audit committee  
25 report, were put to you in cross-examination and we can

1 see from CD/391 that the government responds to each and  
2 every one of those emboldened conclusions.

3           Sirs, I am assuming you can read that for yourselves  
4 and so I will not go through it all.

5           The second point Mr Stinchcombe raised under user  
6 benefits was to say that the SPASM model had attributed  
7 a much higher value, £42 an hour, to business users as  
8 compared to £7 an hour for leisure users and, therefore,  
9 business was six times as high.

10           See if you can help me with that. Assuming that to  
11 be correct, were those figures, therefore, used to make  
12 up the £13.7 billion worth of user benefits that were in  
13 that supporting document to the Air Transport White  
14 Paper?

15 A. If that is correct, they would have been, yes.

16 Q. And do you remember your answer to an earlier question  
17 of mine about the business proportions now and in the  
18 future at the three London airports?

19 A. I do.

20 Q. On the assumption I ask you to make, Mr Rhodes, that the  
21 proportions are broadly similar, the business passenger  
22 proportions are broadly similar, is the data input to  
23 the SPASM model showing higher values for business than  
24 leisure passengers, an argument that in any way  
25 undermines the points in your appendix 1?

1 A. No. It would tend to confirm that the right approach to  
2 the calculation and the apportionment has been used.

3 Q. Mr~Rhodes, we then pass on to day 10. That's yesterday,  
4 Thursday, 14th June. The questions now have moved to  
5 those of Mr Holgate. Point 23. You were asked about  
6 evidence that BAA might have produced to demonstrate  
7 need at any particular level of throughput and you  
8 answered at one point that the reference in the policy  
9 statement was to full use of the runway. I just want to  
10 ask you about this point. To what extent, if at all, is  
11 it necessary for BAA to call evidence to demonstrate  
12 need at any particular level of throughput in the light  
13 of the Air Transport White Paper?

14 A. It is not. The purpose of the white paper is to settle  
15 these issues set out in clear policy and we have the  
16 unusual position of having absolute site specific policy  
17 in the white paper for this application.

18 Q. Point 24. Again at a slightly later stage you were  
19 asked about the Air Transport White Paper policy and  
20 that the first priority is to make full use of the  
21 existing single runway. I just want you to clarify for  
22 me does that, of course, preclude, firstly,  
23 an application being brought forward for the second  
24 runway before full use has been made of the single  
25 runway?

1 A. No.

2 Q. Does it preclude, secondly, construction being started  
3 on a second runway before full use has been made of the  
4 single runway?

5 A. No. The white paper identifies on page 13 the first new  
6 runway at Stansted should be delivered as soon as  
7 possible.

8 Q. Thank you very much. Point 25 relates to the 30 MPPA  
9 condition suggested by ACC. The point put to you was  
10 that on the latest forecast in the capital investment  
11 programme for 2007 a 30 MPPA condition would allow time  
12 for BAA to get a G2 planning permission or as a fallback  
13 permission taking the capacity of the single runway to  
14 35 MPPA. Do you recall those questions?

15 A. I do.

16 Q. And you said at various points there were risks and  
17 risks in the planning system and you said in answer to  
18 one question:

19 "There are risks involved both in forecasting, in  
20 forecasting passenger growth and perhaps even greater  
21 risks in forecasting planning decisions."

22 I just want you to explain to the inspector a little  
23 more of the nature of those risks and whether there is  
24 any purpose served in taking on those risks by accepting  
25 or imposing a 30 MPPA condition.

1 A. I think the risks will be -- I think my answer to that  
2 question is probably fairly predictable. Risks of  
3 planning decisions being delayed are well-known and they  
4 relate not just to the complexities of enquiries into  
5 major proposals, but also to the risk of challenge, risk  
6 of some procedural defect that requires the applicant to  
7 go back to the beginning and start again, challenges to  
8 environmental statements. It is familiar territory  
9 unfortunately in relation to major applications, and it  
10 is not a risk which should be underestimated.

11 Q. And is there any purpose or logic in adopting such  
12 a risk?

13 A. There is no purpose or logic. The first thing to say in  
14 response to your question is that the proposition as it  
15 was put to me isn't, of course, a reason for imposing  
16 a condition. It doesn't begin to get anywhere close to  
17 the guidance for imposing conditions that there may not  
18 be a great risk to the applicant of that condition.  
19 I don't find that anywhere in the guidance. The  
20 condition has to be at least necessary and serve  
21 a number of other purposes, including proper planning  
22 purposes rather than purposes which are aimed at  
23 influencing the regulation of airport charges.

24 I noted yesterday that the purpose of the condition  
25 is set out in Mr Clayton's proof at paragraph 5.13 as

1 making it harder for BAA to achieve a particular  
2 settlement in the next round of regulation. That simply  
3 isn't a proper planning purpose. Even if it was, I fail  
4 to see how the condition would help to meet ACC's  
5 purpose, even if that was a proper purpose.

6 For instance, airport charges are now set until  
7 April 2009. If the airport remains a regulated airport,  
8 then charges will be set for a five-year period from  
9 2009. That would take us well beyond the estimate of 30  
10 MPPA, which means that when the airport charges are  
11 being determined in early 2009, regard will have to be  
12 had to the growth of the airport beyond 30 MPPA whether  
13 there is a condition or not a condition.

14 Regard will also have to be had to the prospect of  
15 beginning the construction of the second runway, because  
16 that will fall within the same timescale, and I would  
17 certainly expected the regulator to have to take into  
18 account the fact that government policy encourages  
19 growth beyond 30 MPPA to around 35 MPPA to make full  
20 use.

21 In the alternative scenario that there isn't  
22 a regulatory framework, because the airport has been  
23 deregulated, then I still fail to see what the condition  
24 would achieve. There wouldn't be a regulatory process  
25 to try to influence in an artificial way through the

1 condition. It would in those circumstances be necessary  
2 for BAA and the airlines to reach agreement between  
3 themselves without the regulator between them, but to  
4 reach agreement on commercial terms for continuing to  
5 run, operate and invest in the airport. They don't need  
6 a condition to protect themselves in that scenario.  
7 They could reach an agreement placed on supply and  
8 demand and normal market considerations.

9 Q. Mr~Rhodes, thank you. You will be delighted to hear you  
10 have anticipated half of point 39.

11 Let me return, however, to point 26. Point 26  
12 relates to questions that were put to you on the  
13 consultation document, which is CD/113. Turn, please,  
14 to page 81, which is table 9.1, which was put to you,  
15 which is entitled "Forecasts of demand for Stansted".

16 MR BOYLAND: Sorry. What was the reference again, please?

17 I have got the document.

18 MR HUMPHRIES: It is page 81, table 9.1. You can see there  
19 for Stansted the figures given for maximum use in terms  
20 of capacity and then the frequent figures forecast for  
21 2015 and 2030.

22 I want to just ask you some questions about the  
23 nature of the consultation exercise that was being  
24 undertaken in this document.

25 Can you turn right back to the beginning, page 8,

1           which is the executive summary, and to paragraph 1.3?  
2           I am going to draw your attention to some paragraphs and  
3           some subheadings and then I am going to ask you  
4           a question.

5           Paragraph 1.3 says that:

6           "In the south-east consultation we are seeking your  
7           views on the following three questions:

8           Should new airport capacity be provided in the  
9           south-east over the next 30 years and, if so, how much?

10          Where should any additional runway capacity be  
11          provided?

12          What controls, mitigation measures and compensation  
13          should be put in place to limit and manage the adverse  
14          effects of additional airport development on people and  
15          the natural environment?

16          If we turn to the next page, page 9, we will see in  
17          the executive summary section 1 picks up the first of  
18          those themes, how much capacity should be provided.  
19          Page 10, section 2, again picks up the second of those  
20          themes, where to provide capacity. 3, on page 11,  
21          managing the impacts.

22          If one goes on again a little further to  
23          paragraph 2.24, you can see the heading:

24          "The key issues for this consultation again address  
25          the same three questions: should there be new airport

1 capacity, where should new airport capacity be located  
2 and measures for controlling and mitigating impacts?"  
3 Those three themes, if one wants to examine the  
4 document, pervade the entire document.

5 Now was this a consultation, Mr~Rhodes, about  
6 particular demand forecasts or was it a consultation  
7 about something else and, if so, what?

8 A. No, it was a consultation about capacity. That was the  
9 way in which the questions were asked both in the  
10 document and in the questionnaire.

11 Q. And in one looks at annex A, the questions that were  
12 being asked, which is on page 159, you can see above  
13 each group of questions the same headings.

14 A. Yes.

15 Q. "Section 1. How much capacity should be provided?

16 Question 1: Should new airport capacity be provided  
17 in the south-east over the next 30 years?"

18 One can go through the document. The same with  
19 section 2, which relates to capacity.

20 "Question 5: To which criteria should be the  
21 government attach the most and least weight in reaching  
22 decisions about the location of new capacity?",  
23 and so on and so forth.

24 Mr~Rhodes, could anyone have been under any  
25 reasonable misapprehension as to what they were being

1 consulted on in this document?

2 A. No.

3 Q. What was it they were being consulted on?

4 A. They were being consulted in relation to Stansted.

5 Obviously they were being consulted on a wider range of  
6 issues, but in relation to Stansted, for instance, they  
7 were being consulted on how much capacity should be  
8 provided.

9 Q. Turn on to page 27, which relates to user benefits.

10 Again you will still need CD/113. Turn, please, to  
11 page 128. You have there table 4.16, which talks about  
12 economic benefits and costs. We know from  
13 paragraph 14.25, which is on the next page, which says:

14 "Economic net benefits in the total above are net  
15 present values of benefits less construction and  
16 maintenance costs of additional airport infrastructure",  
17 from the footnote at the end of that paragraph you  
18 can see that those appraisals were on the basis of a 6%  
19 discount rate. About two-thirds of the way down costs  
20 and benefits were calculated at SERAS over a 60 year  
21 period.

22 You were asked in terms by Mr Holgate firstly about  
23 the benefits and whether the benefits related to the  
24 30 year horizon. He said: "Not a 50 year horizon or a  
25 60 year horizon". From that footnote can we see over

1           what period were the benefits, in fact, calculated?

2    A.   They would appear to have been calculated over a 60 year  
3       period.

4    Q.   And we then know that following this consultation  
5       document, CD/113, the government revised its demand  
6       forecasts and indeed its discount rate, and you were  
7       asked questions about the forecasts known as DLL/25. Do  
8       you recall that?

9    A.   I recall, yes.

10   Q.   Could you look at the other document you were then taken  
11       to, which is CD/232?

12   A.   Which document is that?

13   Q.   That is the passenger forecast additional analysis.  
14       I just want to examine that document. Page 5, the  
15       executive summary is a useful introduction. It just  
16       tells us that the paper explains the work undertaken by  
17       the Department on the nature of demand for air traffic  
18       and expands on the information available in annex A of  
19       the government's Air Transport White Paper. So you can  
20       see how it fits into the picture.

21           Can you turn, please, to page 71, where we can see  
22       part of the DLL/25 forecasts? This is passengers at all  
23       modelled UK airports in 2015 and I want to draw your  
24       attention to the row "Stansted" and the column, "Package  
25       2, maximum use of existing runways".

1 A. Yes.

2 Q. For Stansted maximum use of existing runways in 2015  
3 what is the forecast throughput for the airport at that  
4 time?

5 A. It shows 32.8 MPPA.

6 Q. And how does that compare in broad terms with  
7 Mr Maiden's revised forecasts in CIP/2007?

8 A. It's very close.

9 Q. And if we go on then to page 78, and we look at  
10 paragraph C34, that tells us about the economic benefits  
11 of the various packages in the south-east above the  
12 benefits from maximum use of the existing capacity there  
13 as derived from the forecasts DLL/25 and appraised from  
14 2000 to 2060 and assuming a 3.5% discount rate, and  
15 there is a correction for optimism bias. Those results  
16 are shown in table C1, which is on the very next page.  
17 So have a look at that.

18 If we look at the line "Maximum use of existing  
19 capacity NPV of net benefit billions of pounds, 13.681"  
20 --

21 A. Yes.

22 Q. -- how does that figure relate to the figure used by  
23 TRIBAL in your appendix 1?

24 A. The figures are the same.

25 Q. Is it, therefore, a fair criticism of the figures that

1           you have relied on in your appendix 1 to suggest that  
2           they were based on demand forecasts which are  
3           substantially different from those now assumed in  
4           Mr Maiden's evidence?

5   A.   No.

6   Q.   Thank you.  Let's move on to point 28.  In relation  
7           again to the questions put to you on CD/113, which  
8           related to the impacts being considered at the demand  
9           levels shown in that document, you told us that the Air  
10          Transport White Paper required surface access effects to  
11          be considered and developed through the surface access  
12          strategy.

13  A.   Yes.

14  Q.   I just want you to explore this point.  Although the Air  
15          Transport White Paper is supported by a clear figure in  
16          relation to benefits and sets out large net economic  
17          benefits in paragraph 11.26, what is its approach  
18          generally in relation to impacts?

19  A.   Do you mean all types of impact or are we talking of  
20          surface access?

21  Q.   Certainly start with surface access, but then I am going  
22          to just ask you to comment more generally on impacts.

23  A.   In relation to surface access it identifies clearly that  
24          there would be effects.  There is a need for  
25          infrastructure investment.  It isn't specific as to the

1 precise nature of that investment. It requires it to be  
2 developed between the airport and a range of  
3 stakeholders or partners.

4 Q. And in relation to other impacts is the Air Transport  
5 White Paper -- I am being careful not to lead -- what is  
6 the broad approach of the Air Transport White Paper to  
7 impact generally?

8 A. There are I think two principal elements. One is that  
9 we know that because the work which underlay the Air  
10 Transport White Paper was detailed in respect of  
11 a number of environmental issues, there is clear  
12 recognition in the white paper, firstly, that there will  
13 be impact and, secondly, that those impacts are  
14 understood, and certainly by reading the Air Transport  
15 White Paper that they are acceptable, for instance, in  
16 relation to air noise.

17 We have seen paragraph 11.25, which identifies the  
18 impacts and talks about their acceptability. Similarly,  
19 for instance, even in relation to an additional runway  
20 the scale of impacts is quantified, for instance, in  
21 paragraph 11.39. So it takes that approach, but it also  
22 identifies that the approach to impacts, consistent with  
23 paragraphs 3.5 and 3.6 of the Air Transport White Paper,  
24 is that local control should be used to control,  
25 mitigate and, where relevant, compensate for impacts

1           where they arise. So it follows that there is  
2           an acceptance of a scale of impact and an approach to  
3           dealing with those impacts.

4    Q. Thank you, Mr~Rhodes. We can turn on now to point 29.  
5           The Air Transport White Paper in paragraph 11.26 speaks  
6           of the operator seeking planning permission in good time  
7           to cater for demand as it arises. You were asked  
8           a number of questions about that. Is a 30 MPPA cap of  
9           the sort proposed by the ACC consistent with that theme  
10          of government policy?

11   A. No. The government policy seeks full use of the runway  
12          and a permission to that effect. Placing constraints on  
13          the demand or the ability to accommodate demand would be  
14          directly contrary to the guidance.

15   Q. We will return to that theme a little later, but I want  
16          to turn now to the next point, point 30, which again was  
17          a point put to you by Mr Holgate, and it related to the  
18          duty under section 39 and the regulator, the CAA, having  
19          to perform its regulatory duties in a manner which it  
20          considers best calculated to meet a number of  
21          objectives. You will remember those. They include  
22          promoting the efficient, economic and profitable  
23          operation of the airports and encouraging investment in  
24          new facilities in time to satisfy anticipated demands.  
25          There was some discussion on that and it was put to you

1 ultimately:

2 "Is it a relevant part of the particular context in  
3 which the G1 application falls to be assessed?"

4 You said:

5 "I can certainly agree that much with you."

6 Is it, however, a relevant part of the planning  
7 context in which the G1 application falls to be  
8 assessed?

9 A. Forgive me. I always have some difficulty with  
10 questions like this, because it is relevant to me in the  
11 overall context of planning issues to know there is this  
12 separate regulatory process. It is relevant in that  
13 respect. Does it amount to a relevant planning  
14 consideration? My answer would be no.

15 Q. Thank you for that. Point 31 relates to the RSS  
16 proposed changes, a short point that was put to you. It  
17 was suggested that the RSS requires future development  
18 at the airports to be brought forward and to be the  
19 responsibility of the relevant airport operator or owner  
20 in conjunction with partners, and you told Mr Holgate  
21 that you had certainly understood this to relate to  
22 planning and transportation authorities, but you  
23 accepted the wording probably extends to include a wider  
24 range of stakeholders, including airlines.

25 First point. In terms of partners and

1 transportation authorities, in the context of policy E8,  
2 which is dealing with both G1 and G2, may transportation  
3 authorities actually be promoting development in  
4 conjunction with airport expansion?

5 A. Absolutely, yes. There is a parallel reference in the  
6 Air Transport White Paper in the box on page 118, which  
7 talks about:

8 "The government will work with the airport operator,  
9 the SRA and a range of regional and local partners in  
10 taking forward work urgently to identify robust,  
11 affordable transport solutions."

12 That was one of the reasons why I principally  
13 understood, when I read it, the reference to partners to  
14 relate to those partners who need to play a part in  
15 delivery of transportation infrastructure.

16 Q. Now will the ACC itself be promoting development as part  
17 either of the G1 project or the G2 project?

18 A. Ordinarily not, no, although there is one current  
19 example on the airport of a member of the ACC promoting  
20 its own application for development.

21 Q. How then should one understand that exhortation in the  
22 relevant passage of the proposed changes to the RSS  
23 which refers to the role of partners?

24 A. I take it to mean no more than those who have  
25 a significant role to play should play their part in

1 ensuring the delivery of infrastructure, which is, as we  
2 know, of national importance.

3 Q. Now slightly later you were asked again about benefits  
4 and user benefits and you said:

5 "I suspect we are about to get to a point of  
6 departure from each other. I have already said in my  
7 evidence that my evidence doesn't depend on whether the  
8 NPV is £1.9 million, £2.9 million or £3.9 million. It  
9 is an expression of national policy that there are large  
10 net economic benefits to be achieved from providing  
11 capacity for the maximum use of the runway."

12 Can you just, therefore, explain for the inspectors  
13 what it is you rely on, what it is you draw from  
14 national policy and what regard you have to the  
15 particular figures for NPV which are shown in your  
16 appendix 1 and the role that they play?

17 A. There are a large number of references in the Air  
18 Transport White Paper and even many more references in  
19 the documents that support it to the economic benefit of  
20 aviation and the vital importance for the UK of ensuring  
21 that it does not become a country characterised by  
22 placing artificial constraints on growth, trade or  
23 international connectivity, and the calculation of net  
24 user benefits is one component of that body of evidence  
25 and that body of support to identify the importance of

1 aviation to the national economy, but what I meant by my  
2 answers was to say you don't have to argue about that,  
3 because, as a result of all of that background -- and  
4 I~don't think the precise calculation of user benefits  
5 is important in this -- because as a result of all of  
6 that background we end up with the clearest statement of  
7 national policy, that there are large net economic  
8 benefits. Whether they are slightly more or slightly  
9 less isn't important for the purposes of understanding  
10 the policy and deploying it. They are large net  
11 economic benefits and it is the clearest government  
12 policy that those benefits should be secured.

13 Q. That was point 32. We turn now to point 33, which was  
14 to do with funding. You were asked a number of  
15 questions about funding and the fact that development  
16 would be funded by users and the relevance of that to  
17 the decision.

18 First point, on which I will lead you, because  
19 I~don't think there is any reasonable dispute about it.  
20 This application does not include any physical  
21 development for which there is not already planning  
22 permission, does it?

23 A. This application does not, no.

24 Q. We know the application is to lift two conditions. Does  
25 the lifting of the two conditions itself require

1 funding?

2 A. No.

3 Q. So when we are discussing funding of development, what  
4 actually is it that requires funding?

5 A. The construction of facilities which are in part  
6 consequent upon the lifting of the restriction.

7 Q. Now what does that tell you again about the  
8 appropriateness of applying a condition in relation to  
9 this planning application, which is not itself  
10 an application for any new physical development which  
11 does not already have permission?

12 A. My own personal view is would be an abuse of the  
13 planning system to use this planning application to  
14 achieve other objectives unrelated to planning and not  
15 directly related to this application.

16 Q. That I think, Mr~Rhodes, has wrapped up points 33 and  
17 indeed 34. So I will move on to 35, which relates to  
18 the planning white paper, CD/376. You were asked then  
19 a series of questions by Mr Holgate about paragraph 3.8  
20 and in particular the first bullet point in  
21 paragraph 3.8 and those questions culminated in drawing  
22 your attention to the last sentence in that bullet  
23 point, which says that:

24 "Where government policy is primarily providing  
25 a framework for the private sector investment determined

1 by the market, policy statements are likely to be less  
2 prescriptive."

3 First point I suppose is -- sorry to ask the obvious  
4 -- was government aware that the development at Stansted  
5 would be private sector development?

6 A. The government knew exactly how this and other airports  
7 operate.

8 Q. In the light of that knowledge it obviously brought  
9 forward the Air Transport White Paper policy. Is there  
10 any great merit in the argument as to whether that is  
11 more or less prescriptive or do we simply have to look  
12 at the words?

13 A. Absolutely. The cross-examination lost me a little bit  
14 at this point. I couldn't see the point about  
15 speculating about what future policies about different  
16 developments might be when we have our own policy for  
17 this development.

18 Q. Put that document away and now take out CD/324. This is  
19 now point 36. That is the OFT reference to the  
20 Competition Commission. Can we start in that document  
21 by looking at paragraph 1.1? That tells us that the  
22 Office of Fair Trade has decided to make a reference to  
23 the Competition Commission under section 131 of the  
24 Enterprise Act 2000 for an investigation into the supply  
25 of airport services by BAA within the UK.

1           So the first point to ask you is: is this reference,  
2           therefore, the same as the investigation currently being  
3           undertaken by the CAA?

4   A.   No.  The investigation being undertaken by the CAA --  
5           there are a number of things happening at the moment.  
6           There is the parallel investigation which was already in  
7           train into the future regulation of Stansted that  
8           started with the consideration of whether constructive  
9           engagement could lead to agreement over the next round  
10          of airport charges and then led to a position in which  
11          the CAA and then the air transport progress report  
12          suggested that one thing which should be investigated  
13          should be the deregulation of Stansted Airport.  That is  
14          a separate investigation from this investigation.

15   Q.  Even if Stansted was deregulated under the CAA's price  
16          control regulation, because of BAA's position of having  
17          a large market share both in the south-east of England  
18          and indeed in lowland Scotland, would the OFT still have  
19          the power to make references to the Competition  
20          Commission under section 131 of the Enterprise Act 2002?

21   A.  Yes.

22   Q.  If we look at paragraph 1.3, we can see towards the end  
23          of that paragraph on top of page 5 that what is  
24          considered under a section 131 referral is whether there  
25          is prevention, restriction or distortion of competition.

1 A. Yes.

2 Q. Let us then turn on to section 8.1, which is on  
3 page 128. That tells us that:

4 "In order to make a market investigation reference,  
5 the OFT must have reasonable grounds for suspecting that  
6 any feature or combination of features of a market in  
7 the UK for goods or services prevents, restricts or  
8 distorts competition in connection with the supply or  
9 acquisition of any goods or services in the UK or part  
10 of the UK."

11 That's the section 131 test. We can see that.

12 Now you were taken to paragraph 8.5, which  
13 identifies the three structural features which the OFT  
14 suspect may adversely affect competition. The first of  
15 those is the existence of development restrictions and  
16 capacity constraints, the second is joint ownership of  
17 Heathrow, Gatwick and Stansted, and the third one, over  
18 the page, is the regulatory regime. You were asked  
19 a lot of questions about that one.

20 I want to ask you a little about the first one, the  
21 existence of development restrictions and capacity  
22 constraints. Reference is given to us there of  
23 paragraphs 5.4 to 5.16. Can you just turn to 5.4,  
24 please? Mr~Rhodes, I want to try to avoid simply  
25 reading large parts of text, but in order to ask the

1 question I want to ask you I just need to get you to get  
2 a feel for these paragraphs.

3 5.4 talks about the planning system acting as:

4 "... a serious barrier both to new entry and to  
5 expansion by existing airports. The planning system as  
6 it currently works does not allow us to foresee any  
7 possibility of new entry on a significant scale.

8 5.5. New airports or airport expansion may be ruled  
9 out because of their impact on noise level, air quality  
10 and traffic on surrounding areas. Where a project is  
11 possible, it will invariably be subject to lengthy  
12 consultation."

13 Then it refers to Terminal 5. It goes on to look at  
14 the white paper in 5.6 and also 5.7, which talks about  
15 the conclusion of two new runways in the south-east.

16 5.9 tells us about other factors beyond the planning  
17 system which can limit the ability to establish a new  
18 airport. It talks about congestion. Talks about the  
19 green belt.

20 5.12 starts to talk about capacity constraints and  
21 that theme goes on to 5.13, 5.14 and 5.15.

22 Then you get the conclusion at 5.16. Let me take  
23 you to the conclusion on this particular aspect. It  
24 says:

25 "In the long-term there is scope for expansion of

1 existing airports in the south-east but no real scope to  
2 build a major new airport serving key population  
3 centres. Expansion is subject to a range of hurdles  
4 which can cause delays and may hinder the development of  
5 sufficient capacity to facilitate competition.  
6 Therefore, we consider that development restrictions and  
7 capacity constraints are a feature of the market that  
8 restricts, prevents or distorts competition."

9 Now the existing airlines at Stansted which hold the  
10 majority of the slots here, and we know that two amongst  
11 their members are the majority slot holders, are  
12 proposing a condition which would limit the capacity of  
13 the airport to 30 MPPA. What effect might that have on  
14 restricting, preventing or distorting competition and  
15 new entry by airlines into the market?

16 A. It would be anti-competitive.

17 Q. Is that something that the OFT is, firstly, concerned  
18 about?

19 A. Yes.

20 Q. And is that something which the OFT is asking the  
21 Competition Commission to look into?

22 A. Yes.

23 Q. Thank you. 37. You were then asked in relation to that  
24 document about one of the other three concerns of the  
25 OFT, which was the regulatory system, and the OFT

1 identified what it considered to be problems and it has  
2 made a reference to the Competition Commission.

3 Firstly, is it the role of the planning system to  
4 second guess the outcome of the Competition Commission's  
5 deliberations on that reference?

6 A. No.

7 Q. In so far as it is suggested by the ACC that the  
8 regulatory system as administered by the CAA is not well  
9 equipped to take forward its role, is the planning  
10 inspectorate any better equipped to consider the role of  
11 BAA's investment decisions, landing charges and the  
12 effect that that may or may not have on passenger  
13 numbers?

14 A. Than?

15 Q. Than the CAA.

16 A. No.

17 Q. Point 38 we can pass over, because I think we have dealt  
18 with it.

19 Point 39. The point was put to you at one stage  
20 that:

21 "One of the arguments which is used in order to  
22 promote the inclusion of future project in the asset  
23 bank is this. 'Planning permission has been granted for  
24 the expansion of Stansted from 15, shall we say, to 25  
25 and we need the following infrastructure to accommodate

1 the 25 million passengers.' That's the sort of argument  
2 that goes on promoted by BAA when a price review takes  
3 place."

4 You said:

5 "Yes, and I am sure ACC would also make its points  
6 at length probably to the regulator."

7 I just want to ask you about the relevance of  
8 planning permission in CAA's regulatory considerations.  
9 Can you please have out document 392?

10 A. Just help me with that document. Which document is it?

11 Q. It is the airports' review policy update. I have got  
12 a spare copy here. Mr~Rhodes, we have the airports'  
13 policy review consultation document, which was December  
14 2005, CD/256.

15 A. Yes.

16 Q. You don't need to look at that. This is the May 2006  
17 document, which came out following the CAA's  
18 consultation and it is numbered CD/392.

19 If you turn to page 37, the question posed, which  
20 was a question in the consultation document, is:

21 "Is the CAA's proposed approach to managing lumpy  
22 investments appropriate? If not, what other options  
23 should be considered and why?"

24 If we turn on a little bit to page 44, you can see  
25 there is a subheading "Options for dealing with

1           uncertainties at the rate of demand growth and  
2           investment lumpiness". Paragraph 4.49 says:

3           "The CAA also recognises the degree of opposition  
4           and concern among airlines to a notion of revenue  
5           advancement or pre-funding as a means of addressing the  
6           issues of demand uncertainty and avoiding unduly  
7           suppressing investment incentives. It has, therefore,  
8           considered carefully the airlines' arguments,  
9           particularly in relation to Stansted."

10           Then a number of arguments were presented. You see  
11           at 4.50 it says:

12           "The arguments take a number of forms."

13           I want to turn to the fourth of them, which is dealt  
14           with in paragraph 4.53. It says this:

15           "Fourth, the argument has been made that revenue  
16           advancement is not justified where the investment being  
17           pre-funded has not been awarded planning permission.  
18           The CAA recognises that the key consideration in  
19           deciding on the degree of revenue advancement would be  
20           the likely size and imminence of capital expenditure.  
21           Equally, the CAA would expect to take into account  
22           whether an investment has been awarded or is likely to  
23           be awarded planning permission. In the case of Stansted  
24           Airport the analysis set out in the government's white  
25           paper and further analysis since then will bear on this

1 question. All that said, as a matter of principle the  
2 absence of planning permission is not a reason to  
3 prevent some form of revenue advancement."

4 Now this is point 39 and I told you before you had  
5 answered part of point 39. The first thing I want to  
6 ask you about is this. Assume there is what the ACC has  
7 called an interim 30 MPPA condition --

8 A. Yes.

9 Q. -- and, therefore, that planning permission did not  
10 exist beyond that 30 MPPA condition. Would that itself  
11 prevent revenue advancement on the basis of the policy  
12 set out in paragraph 4.53, in other words, just because  
13 planning permission did not exist?

14 A. No, and it is actually helpful to see the reference  
15 there to the Air Transport White Paper as well. The  
16 absence of planning consent is not a sufficient reason  
17 not to admit a project to the RAB, particularly I would  
18 expect where there is clear policy support for it.

19 Q. So even on the ACC's basis, as you said, set out in  
20 Mr Ian Clayton's proof that what it is seeking by its  
21 condition is to control what BAA puts into its  
22 regulatory asset base for the purpose of regulation and  
23 the setting of landing charges, would such a condition  
24 achieve that even if it was imposed?

25 A. It seems unlikely.

1 Q. Then I move on to point 40. I am now getting to  
2 Mr Smith. I am passing also from yesterday to today,  
3 that is day 11. Point 40 relates to Hatfield Forest.  
4 Mr~Rhodes, a number of questions were put to you by  
5 Mr Smith both yesterday and today relating to the  
6 treatment of Hatfield Forest in the environmental  
7 statement and on a number of occasions, "Well, things  
8 aren't dealt with in the particular section or  
9 appendix", that your attention was being drawn to, "but  
10 they are dealt with elsewhere".  
11 Let me give you an opportunity now to just explain  
12 to the inspectors what consideration was given to the  
13 effects on Hatfield Forest and indeed your own view from  
14 your own evidence of the effects of the proposed  
15 expansion on Hatfield Forest.  
16 A. I'll try to do that briefly.  
17 Q. Of course.  
18 A. Probably, first of all, it is sensible to say that  
19 issues relating to Hatfield Forest, of course, arose in  
20 the 2001-2003 planning application and consent and,  
21 therefore, during which the National Trust did make  
22 representations, and BAA and the District Council would  
23 have been well aware of those issues. I don't think  
24 there is any question of it being out of the mind of BAA  
25 or of those undertaking the environmental assessment.

1           The environmental assessment was then scoped and  
2           also the planning application or the proposed planning  
3           application was consulted on very extensively, and the  
4           consultation report does repay a visit, because it  
5           identifies the representations the National Trust, for  
6           instance, made under a number of headings. They were  
7           responded to there by BAA and those responses indicate  
8           BAA's understanding that, for instance, in relation to  
9           noise and air quality there was unlikely to be  
10          significant environmental effect on Hatfield Forest from  
11          the G1 increase in activity.

12          Nevertheless a number of the volumes of the  
13          environmental statement address Hatfield Forest where it  
14          is relevant to do so and where there are significant  
15          environmental effects to address.

16          It is true that the Archaeology and cultural  
17          heritage section focused principally on Archaeology.  
18          That was its scope intention, which was consulted upon  
19          and settled. The effects on Hatfield Forest were  
20          principally considered in relation to noise, air quality  
21          and landscape and visual impact, and simply for the  
22          transcript rather than looking at them it may be helpful  
23          if I say in relation to noise one could look at  
24          volume 2, paragraph 12.2.1, which recognises that there  
25          is a potential for noise to impact directly or

1 indirectly on the ecology in the vicinity of the airport  
2 and defers that consideration to the nature conservation  
3 chapter volume 10.

4 In relation to air quality we know as a result of  
5 workshops with the National Trust the question of  
6 nitrogen deposition was scoped out of the assessment,  
7 only to re-appear subsequently. That explains why it  
8 was not addressed directly in the submitted  
9 environmental statement, but it was not omitted from the  
10 process, because it was the subject of regulation 19  
11 requests and is addressed at page 32 of the regulation  
12 19 response.

13 Similarly we know that paragraph 11.22.1 of the air  
14 quality volume referred to figures 4 and 8 of the  
15 assessment, which looked at the increment of NOx  
16 concentrations between 25 and 35 MPPA, and the increment  
17 is very small indeed. It is not surprising on that  
18 basis that the assessment did not consider that there  
19 were significant environmental effects to address.

20 The Archaeology and cultural heritage volume,  
21 volume 4, figure 5, which we did not look at,  
22 paragraph 5.1.4 clearly was aware of the significance of  
23 Hatfield Forest's presence as an ancient woodland with  
24 scheduled ancient monuments and other heritage assets in  
25 the vicinity of the airport, but in my view, having

1 regard to the air noise conclusions and the air quality  
2 conclusions, quite rightly and understandably did not  
3 address significant environmental effects, because there  
4 were not any to assess.

5 The landscape and visual assessment in volume 9  
6 clearly was cognisant of the fact that there would be  
7 increased aviation. That is paragraph 10.22.18, but  
8 certainly in my judgment, consistent with the planning  
9 judgment that I make, it was entirely understandable  
10 that that was not considered to be a significant  
11 environmental effect on Hatfield Forest or indeed  
12 elsewhere.

13 Hatfield Forest, though, was taken seriously. We  
14 saw the phrases about Hatfield Forest and specific  
15 attention drawn to view 11, the view from the forest,  
16 and mitigation proposals in respect of that view put  
17 forward at paragraph 11.3.87 together with photographic  
18 before and after views from there set out in figures 8  
19 and 10 of the environmental assessment.

20 Then in relation to nature conservation, the nature  
21 conservation chapter identifies that the air quality  
22 contours do not encroach on Hatfield Forest or East End  
23 Wood, and on that basis -- this is paragraph 10.4.3 --  
24 it is entirely understandable that there was no  
25 significant environmental effect to assess in that

1 respect.

2           There was, though, further consideration given as  
3 a result of the regulation 19 response. The regulation  
4 19 response, page 4, provides the baseline study for  
5 fauna and flora in Hatfield Forest, which was  
6 a requirement of the previous section 106 agreement  
7 referred to in my proof, in my judgment a very important  
8 document in the context of this debate, and  
9 interestingly not cross-examined, because that study  
10 identifies no harm, no harm to the ecology of Hatfield  
11 Forest from its proximity to the airport. It was  
12 deliberately undertaken for that purpose and as far as  
13 I am aware there is no evidence at all before this  
14 Inquiry arising from the proximity of the airport to  
15 Hatfield Forest.

16           There are also references on page 40 of the  
17 regulation 19 response to other matters relating to  
18 ecology of species in Hatfield Forest, because they were  
19 requested, and I believe on page 32 of the regulation 19  
20 response in relation to nitrogen deposition.

21           In my judgment the environmental assessment took  
22 an entirely proper approach. I understand why the  
23 National Trust with its specific interest attaches such  
24 importance to Hatfield Forest and I agree it is  
25 an extremely important woodland. It is everything that

1 the National Trust says it is. There is no case being  
2 made by BAA to contradict that, but the environmental  
3 assessment is concerned with assessing the likely  
4 significant environmental effects on the environment at  
5 and around the airport, not just Hatfield Forest.  
6 Others could make a case for Thaxted or different  
7 villages or different listed buildings. There are 150  
8 archaeological resources identified in one of the  
9 appendices. It is not the job of the environmental  
10 statement to address each of those. It properly focused  
11 itself where there were significant environmental  
12 effects and in my judgment is comprehensive in that  
13 view, and that's consistent with the judgment that I  
14 have reached as well.

15 It is interesting, I think, when one is looking to  
16 balance harm against the weight of the white paper or  
17 the benefits of the development, it is actually quite  
18 hard to define where that harm is said to arise. The  
19 air quality impact argument seems to be focused on  
20 Hatfield Forest, but the increment is tiny against  
21 a falling baseline, and no evidence of adverse effects  
22 arising from higher concentrations of nitrogen at the  
23 moment.

24 I have given my views in relation to noise impacts.  
25 Hatfield Forest isn't a tranquil environment. It may be

1           many other wonderful things, but it is not a tranquil  
2           environment. It sits relatively close to the motorway  
3           and it is affected by noise from aeroplanes already from  
4           Stansted.

5   MR PHILLIMORE: I hesitate to interrupt, but you are now  
6           straying into giving further evidence.

7   MR HUMPHRIES: You have a wonderful memory or a brief note.  
8   A. I have a brief note. I wrote it myself earlier on.  
9           I thought you had asked me how that compared with my  
10          judgment.

11   MR HUMPHRIES: You are entirely right. When you were being  
12          cross-examined, as I pointed out, there were a number of  
13          points at which you said, "I want to draw your attention  
14          to things" and you weren't allowed to.

15   A. I am sorry if I have strayed too far. I have given you  
16          the references to the environment statement. Just to  
17          conclude --

18   Q. Joking aside, do you want to complete that answer?  
19          I think you should if there are things to be said,  
20          because the inspectors will want to hear your evidence.

21   A. I think I only have another thirty seconds to go.  
22          I apologise if I have gone too far.

23   Q. You are completely blowing my estimate here.

24   MR BOYLAND: I think you have already blown it,  
25          Mr Humphries.

1 MR HUMPHRIES: Please, Mr~Rhodes. I am so sorry.

2 A. I was only concerned, finally, to try to address the  
3 noise impact effect on Hatfield Forest. I have done my  
4 very best to identify what that effect might be.

5 I mean, I am told by the recommended approach to noise  
6 calculation that it wouldn't be a significant effect,  
7 and I think this Inquiry has to place a lot of weight on  
8 the way in which the noise measurements are recommended  
9 to be undertaken on an averaged basis rather than  
10 counting respite times, which is not a recommended  
11 method of noise assessment for reasons which Jeff  
12 Charles is probably better able to explain than I am,  
13 but which I understand.

14 It is not a tranquil environment. People don't go  
15 there to get away from aeroplanes. They go there for  
16 its other qualities. Observing people in Hatfield  
17 Forest as planes go over, they don't stop their  
18 conversation. They don't look up. They are enjoying  
19 Hatfield Forest and its wonderful environment. There  
20 are not long periods of tranquillity between planes.  
21 Planes are a consistent feature throughout the day in  
22 Hatfield Forest, but they do not detract from its other  
23 wonderful qualities, and I don't think it is appropriate  
24 to think that some form of tranquillity threshold is  
25 being breached. It doesn't exist at the moment and it

1 would not be significantly changed in my judgment as  
2 a result of the proposals. So in that respect as well  
3 I am not able to define the sort of significant level of  
4 harm that would be necessary to overcome very clear  
5 policy support for the development.

6 Q. Mr Rhodes, thank you.

7 MR SMITH: Forgive me for interrupting. I wonder if I could  
8 be told again, because I didn't get an adequate note of  
9 it, which paragraph of the Archaeology volume made  
10 reference to figure 5. I obviously jotted the wrong one  
11 down when Mr Rhodes mentioned it, because it didn't seem  
12 to be making the cross-reference he said it did.

13 Forgive me, sir, for interrupting.

14 A. The reference I have in front of me, but I haven't  
15 checked it, is to paragraph 5.1.4, which identifies  
16 cultural heritage facilities within -- relates to  
17 cultural heritage facilities within 1-kilometre  
18 boundary --

19 Q. It doesn't refer to figure 5.

20 A. I don't think I said it referred to figure 5, but figure  
21 5 does, as you know, set out the information about  
22 cultural heritage facilities within 1-kilometre of the  
23 airport. That is where you find that information.

24 Q. Sorry for interrupting, sir. I thought it was being  
25 asserted that some paragraph in that volume referred to

1           that figure, but it appears it is not being so asserted.

2    A.   Thank you.

3    MR HUMPHRIES:   Mr Rhodes, I think that answers my points 40  
4           and 41.   Two short additional points and then we finish  
5           and go home for the weekend.

6           Point 42 relates to Mr Stigwood's respite period.  
7           You were asked about that and you said at one point you  
8           had concerns about the concept of respite and  
9           Mr Stigwood's approach.   The questioning then sort of  
10          went on to other matters.   What are those concerns about  
11          the concept approach?

12   A.   Well, we know that the concept has no quality status.  
13          There is no recommended approach to assessing the impact  
14          of aviation or anything else in relation to respite  
15          periods.   What the LEQ matrix does is to consider the  
16          effect of -- I call them noise levels -- noise levels  
17          and frequency events over a period of time in order to  
18          replicate the way in which they are experienced as best  
19          it can.   So as an approach I think it is highly suspect  
20          if it is intended to be the basis of a noise assessment.  
21          It could play a part in a character assessment.  
22          I understand that and I did something similar in my own  
23          evidence.

24          One of the things I might say, I think there may be  
25          difficulty with both the data Mr Stigwood uses and also

1           some disagreement between he and I over the periods of  
2           time over which noise is experienced.  If it is helpful,  
3           I could talk with him to see if we could reach some  
4           agreement around a note based on that if that was  
5           thought a useful thing to do.

6    Q.  Thank you.  Then the final point, again still with  
7           Mr Smith, point 43, which relates to air quality, and  
8           you were asked a number of questions about the  
9           government's approach to exclusion zones and the  
10          30 micrograms per metre cubed threshold.  Questions were  
11          put to you on the basis that if the exclusion zones did  
12          not apply and if, following planning permission, it was  
13          found that there were exceedances of the 30 microgram  
14          per metre cubed threshold, what would BAA do, and you  
15          gave answers to that.

16                 Two points, however, I want to ask you about.  
17          Firstly, what is predicted to be happening to background  
18          levels with time?

19    A.  They are predicted to fall.

20    Q.  Mr Smith did not give any indication of what level of  
21          exceedance of the 30 microgram per metre cubed he was  
22          suggesting, but in so far as there is on his hypothesis  
23          an exceedance, what happens to the size of that  
24          exceedance with time?

25    A.  It would fall over time.

1 Q. The second point relates to an answer you gave where you  
2 said it would be extremely difficult to mitigate the  
3 impact, which was an answer to the particular question  
4 about mitigation, but you then said that the Air  
5 Transport White Paper suggests as the next stage that  
6 one considers compensation.

7 Now the National Trust obviously has advanced a case  
8 about exceedance. Has it proposed or indeed entered  
9 into discussion with BAA on the theme of any  
10 compensation it would wish to see if planning permission  
11 were granted?

12 A. No.

13 Q. And that, sir -- thank you very much -- is it.

14 MR PHILLIMORE: Thank you very much, Mr Humphries.

15 Questions from MR BOYLAND

16 MR BOYLAND: Just one question I think, Mr~Rhodes, or part  
17 of a question, because it has been partly answered by  
18 re-examination by Mr Humphries. There were many other  
19 questions, which have been answered over the course of  
20 the last few days. This one concerns the suggestion by  
21 the ACC of a cap at 30 MPPA. You have said, Mr~Rhodes,  
22 in response to that, that that would pose a risk of  
23 delays to planning decisions. Am I right in thinking  
24 the bearer of that risk would be BAA rather than the  
25 public?

1 A. I just slightly missed something that you said, sir.  
2 Would pose a risk to -- a risk of?  
3 Q. You referred to the risk of delays to planning decisions  
4 through appeals and challenges.  
5 A. Oh, I see.  
6 Q. I am just wondering, you know, to whom there is a risk.  
7 Is it to BAA or the public at large?  
8 A. I would say, sir, there there is a risk to the national  
9 economy if the growth of aviation, which the government  
10 has explained at length is something which it wishes to  
11 facilitate in the national interest, if that growth  
12 cannot be accommodated because of delays in planning  
13 decisions. So that if the incremental application from  
14 30 to 35, as the ACC suggests, is wrapped up in the G2  
15 enquiry and that is delayed for some reason, there would  
16 then be an artificial constraint on the growth of the  
17 airport contrary to national policy, which would have --  
18 it clearly would have effects on BAA and indeed on the  
19 airlines, but also on customers, passengers and users of  
20 the airport, but probably most importantly I think on  
21 the national economic interest.  
22 Q. Thank you. You also mentioned that it would be  
23 anti-competitive, which is not a planning consideration.  
24 A. No.  
25 Q. Are there any other aspects of harm in land use planning

1 terms that would arise from setting a cap at 30 million  
2 now with a view to moving to 35 later, if necessary?

3 A. Well, of course, we can't have any certainty that we  
4 would move to 35.

5 Q. That's why I said "if necessary".

6 A. If possible. I think there would be several harms  
7 arising. I have spoken about the policy harm, the  
8 conflict with national policy, with a policy seeking  
9 full use and a condition preventing that happening. In  
10 land use planning terms the other consequences would be  
11 a curtailment of employment opportunity, a restriction  
12 on the ability which the airport has to facilitate  
13 economic activities such as, for example, the  
14 regeneration of Harlow, but also the assistance which  
15 the airport gives to particularly air intensive  
16 industries in the east of England, which alone make up  
17 one-third of the employment in the east of England, and  
18 the restriction which it places on the ability of the  
19 public to enjoy what it called the social benefits of  
20 air travel.

21 Q. Thank you very much.

22 Questions from MR PHILLIMORE

23 MR PHILLIMORE: Just the one from me as well. It has been  
24 a long week and I imagine a longer week for you, more  
25 for you than for most others. Just one point. It is in

1 relation to the community fund, on which you have given  
2 evidence. I understand that has to be brought forward  
3 as a matter to be covered by the section 106. In terms  
4 of government advice on planning obligations can you say  
5 what your view is in relation to the evidence you have  
6 given about the community fund? How would you place  
7 that in the context of that advice?

8 A. The proposal certainly is to roll forward the fund from  
9 2010 to 2015. It is an obligation which is going to be  
10 proposed by BAA and therefore I don't think it falls  
11 into the category of an obligation as being imposed.  
12 The question really in policy terms arises: what weight  
13 should be placed upon it? I have explained that I think  
14 it is a good response to what I called generalised  
15 concern about impacts on the community. The activities  
16 of the fund may not mirror precisely what those concerns  
17 are, but it does compensate I think legitimately  
18 concerns that arise in the community. It is consistent  
19 with government policy, as we have seen, in the Air  
20 Transport White Paper as something which the government  
21 anticipates airports will do to enhance their  
22 relationship with the community.

23 If it were a question of whether it was strictly  
24 necessary or not, I think that would be a difficult  
25 question to answer. I have referred to this in part in

1 my proof, because towards the end of 2002 the previous  
2 application went to committee and the committee were  
3 seeking further enhancement, and the officers reported  
4 back that this discussion had taken place with BAA, who  
5 back the fund, and this was the scale of it. The  
6 officers' advice was clear enough, and I have quoted it  
7 in my proof. There are certain elements of the offer  
8 that have been made which really in land use planning  
9 terms the officers couldn't say was strictly necessary  
10 or at least the basis for increasing them couldn't be  
11 based on strict necessity and it was on that basis  
12 I think that the fund offer was settled.

13 So I think these questions depend on whether it is  
14 being offered or imposed. It is being offered in this  
15 case. It is a material planning consideration, I think  
16 a proper response to concerns in the community, and in  
17 my judgment up to a point it probably does pass the test  
18 of necessity if it needed to or at least appropriateness  
19 to serve a planning purpose, because it is the best way  
20 of responding to community concerns that are not  
21 specifically identified in a way that can be targeted by  
22 other mitigation.

23 MR PHILLIMORE: Thank you very much, Mr Rhodes. Unless  
24 there is anything else this evening ...

25

1 Discussion of housekeeping matters

2 MR SMITH: Sir, may I mention a short housekeeping matter  
3 and I will keep it short and abrupt? It will be  
4 a positive advantage to you, sir, if you discover next  
5 week I am not here. We mean no disrespect if I am not.  
6 As you know, sir, we budgeted and expected to be able to  
7 deal with all business here this week. Not a complaint  
8 against anybody at all; simply a statement of the way  
9 things are. What we may well end up doing is you will  
10 see that from time to time I have had "volunteers" who  
11 are here to help with any notes that need to be taken,  
12 but had we reached air quality and noise this week,  
13 I would have had air quality-ologists and noisologists  
14 assisting me. What we may end up doing is bringing  
15 persons in those disciplines to listen to what is being  
16 said and report back.

17 Secondly, if we are not here, that could also have  
18 been influenced by the fact that, as you would expect of  
19 us, we have been seeing to what extent our position is  
20 likely to be covered in any event by others so that we  
21 can avoid any repetition, and that also will go into the  
22 equation.

23 So, sir, through the programme officer we will keep  
24 you informed as best we can, as soon as we can of any  
25 changes, but just to alert you, sir, that we may not be

1           here next week, which may mean that any pessimism in the  
2           programme could be ironed out.

3   MR PHILLIMORE: Thank you, Mr Smith. We anticipate there  
4           will be further discussions outside the Inquiry with the  
5           programme officer. Anything else before we adjourn now?

6   MR HILL: Very briefly. We have heard a fair bit about  
7           Hatfield Forest today and no doubt we will be returning  
8           to it next week in the context of noise. It would be  
9           helpful for us to know whether you have been able to  
10          spend some time in Hatfield Forest acquainting yourself  
11          with it in the last week or so. I say "you" jointly.

12   MR PHILLIMORE: We have been on the fringes of the forest.  
13          We have not spent the time I am sure you are referring  
14          to. It is certainly our intention to do that and we  
15          have not done so far, but we will at some stage.

16   MR HILL: Thank you very much.

17   MR PHILLIMORE: Anything else? Thank you all very much. We  
18          are now adjourned until 10 o'clock on Tuesday. Thank  
19          you.

20   (4.05 pm)

21                               (Hearing adjourned until 10.00 am  
22                               on Tuesday, 19th June 2007)

23   --ooOoo--

24

25

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