

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STANSTED AIRPORT
G1 PUBLIC INQUIRY

held at
Endeavour House
Stansted Airport

on Friday, 8th June 2007
commencing at 10.00 am

APPEARANCES

1

2

3 MR ALAN BOYLAND, Inspector

4 MR TERRY PHILLIMORE, Inspector

5 MR MICHAEL HUMPHRIES, QC, BAA

6 MR THOMAS HILL and MS LISA BUSCH, Uttlesford District

7 Council, Essex County Council and Hertfordshire County

8 Council

9 MR PAUL STINCHCOMBE and MS SARAH HANNETT, Stop Stansted

10 Expansion

11 MR KEITH TURNER, National Trust

12 MS MICHELE HATWELL, Uttlesford District Council

13 Communication

14 DR PAT ELLIOTT, Saffron Walden District Friends of the Earth

15

16

17

18

19

20

21

22

23

24

25

Friday, 8th June 2007

1

2 (10.00 am)

3 MR PHILLIMORE: We are resuming the Inquiry. Just to remind
4 you about mobile phones.

5 Anything before we proceed with the re-examination
6 of Mr Harborough?

7 MR HILL: Sir, just one very short point. I was trying
8 overnight to bring myself up-to-date with the core
9 documents. Rather like my learned friend, I found that
10 some of mine were now referenced in the way that had
11 been superseded. I also discovered that the EIA
12 Regulations in the accompanying circular had made their
13 way on to the core documents list. I just wanted some
14 help from you as to how you would like us to proceed in
15 circumstances such as this. This is the sort of
16 documentation which we have all got, at least those who
17 are actively involved, is what I suspect. Do you want
18 us to add these to the core documents list?

19 MR PHILLIMORE: I think if you raise it with Mr Osborn in
20 the first instance, then he can speak to us about it.
21 As a general principle, I think regulations probably
22 don't need to be a core document. Obviously other
23 things, if they are important, we are quite happy to
24 have them. I think it is with Mr Osborn in the first
25 instance.

1 MR HILL: Thank you very much. I will do that.

2 MR HUMPHRIES: In relation to that one, and I am not going
3 to be able to put my finger on it, I thought the
4 regulations had got on there. I mean, it does not
5 matter, we can try to sort this out later. I am sure
6 they were one that sort of came through my in-tray and I
7 had filed them, but I might have that wrong. Maybe it
8 was the directive. If I come across it, I will let
9 Mr Hill know.

10 MR PHILLIMORE: That is extremely helpful.

11 Mr Hill, can you give us a feel for how long
12 re-examination will be?

13 MR HILL: As you will aware, I have over six hours of
14 cross-examination to consider.

15 MR HUMPHRIES: Five hours 50 minutes.

16 MR HILL: My count is over 6 hours. It certainly felt like
17 over six hours, to quote a respectable source. I would
18 say it will be in the region of an hour and a half to
19 two hours. Let us hope on the shorter side, but
20 certainly it would run up to the mid-morning break. I
21 will look for an appropriate point if we have not
22 completed by that time.

23 MR PHILLIMORE: Thank you.

24 MR ROGER HARBOROUGH (continued)

25

1 Re-examination by MR HILL

2 MR HILL: Good morning, sir.

3 A. Good morning.

4 Q. I am going to ask you some questions in my conventional
5 style in the order really in which the matters were
6 raised in cross-examination but before I do that, there
7 are one or two matters I would like to ask you about
8 that arise principally from the latter part of the
9 cross-examination. I think it would be helpful just to
10 seek some clarification from you on one or two general
11 matters of principle.

12 You were asked a number of questions about the
13 report to committee which led to the reasons for refusal
14 that the Council issued. No surprises there. That is
15 the document that I think is now referenced as CD34. If
16 you can have that to hand.

17 There is a slight complication as there were two
18 reports stapled together but the one I want to ask you
19 about is the main Manning report, agenda item 3, for
20 29th November. Do you have that to hand?

21 A. I have.

22 Q. If we just look back to that document and to pages 15-17
23 of the agenda item 3 report. Do you have those?

24 A. I do.

25 Q. You will see there set out the recommended reasons for

1 refusal. Without going through them all in detail, just
2 looking at the headings: noise; quality of life; air
3 quality; water conservation; surface access issues,
4 climate change and then the economic case. Are you
5 satisfied that those reasons for refusal were soundly
6 based?

7 A. I am satisfied, yes.

8 Q. In reaching the recommendation to which you jointly came
9 with your colleagues for refusal, what reliance was
10 placed upon the 16 volumes of the environmental
11 statement, supplemented by the EIA sustainability
12 appraisal, the Regulation 19 response, the consultees'
13 responses and the advice from the Council's technical
14 responses?

15 A. That material formed the basis of the recommendation.

16 Q. Was that material available at the time of the
17 consultation on the Air Transport White Paper?

18 A. No, it was not, no.

19 Q. Is there anything that you found in the Air Transport
20 White Paper to which you would like to direct our
21 attention, which precludes a local planning authority
22 from refusing planning permission for a proposal
23 mentioned in the White Paper upon receipt of
24 environmental information in connection with that
25 proposal?

1 A. No. The Air Transport White Paper sets out the part of
2 the quality context.

3 Q. As we have seen and as you told my learned friend
4 Mr Humphries, environmental information was provided,
5 the analysis disclosed a series of what you called
6 residual impacts, which you told Mr Humphries justified
7 refusal in the view of the local planning authority.

8 A. Yes.

9 Q. We touched briefly yesterday upon the witness statement
10 of Mr Ash, a senior civil servant in the then ODPM.
11 I think the reference was from Mr Justice Sullivan's
12 judgment, but I think we have it before us as CD382,
13 which may be easier to handle because the judgment is
14 somewhat extensive.

15 MR PHILLIMORE: Mr Hill, did you say the witness
16 statement --

17 MR HILL: I believe it is CD382. I may have fallen behind
18 with referencing the core documents.

19 MR HUMPHRIES: That must have gone in so recently I have
20 only got to 381.

21 MR HILL: Certainly I had it yesterday with 382 on it.

22 MR PHILLIMORE: We don't seem to have it in here. Is it
23 possible to work from the judgment?

24 MR HILL: We can do.

25 MR PHILLIMORE: That is 342.

1 MR HILL: I just need to read up the reference that was put.

2 Paragraph 56. Reference to the witness statement
3 itself. I think it is paragraph 7.17 of the witness
4 statement, when those in the room have the opportunity
5 to compare the texts. That is where Mr Ash states in
6 summary that the decision-maker should balance the
7 impacts of a proposal against the need case.

8 A. Indeed, yes.

9 Q. Your report to committee, CD34, as well as considering
10 the impact, the residual impacts, also considers the
11 case for the development and in particular the
12 proclaimed economic gains in the material before the
13 Council. We have seen that led to reason for refusal
14 number 9. Just look at reason for refusal number 9.
15 That is headed "Economic Benefits":

16 "The forecast economic benefits of the proposal
17 development, particularly in the light of Stern, have
18 not been demonstrated strongly enough for them to be so
19 overriding as to outweigh all other factors, with or
20 without mitigation, to the detriment of the principles
21 of sustainment development ..." etc.

22 Why did you look at the specific elements of the
23 need case in your report rather than seek to attribute
24 some generic quantum of weight to be attached to maximum
25 use based upon its mention in the White Paper?

1 A. Because I was considering the specific effects in terms
2 of economic benefits and disbenefits in the context of
3 the national policy statement on economic benefits.

4 Q. Do you think it is possible to attribute a uniform,
5 all-purpose weight to be attached to a proposal simply
6 on the basis of its mention in the White Paper?

7 A. No. The purpose of making a planning application is to
8 look at the --

9 MR HUMPHRIES: Sir, the witness is simply being invited to
10 go back on the very clear answers yesterday that we
11 have --

12 MR HILL: No, no, he is not.

13 MR HUMPHRIES: -- in the transcript.

14 MR PHILLIMORE: I am happy for you to resume your
15 re-examination, Mr Hill.

16 MR HILL: Just to make that point very clear, help us on
17 this, Mr Harborough. If you don't feel able to express
18 a view, obviously you would tell us. In your view
19 should the economic and need case for an additional
20 runway, which might deliver an extra 40 million
21 passengers per annum, attract the same weight or some
22 other weight in the balancing exercise as one for
23 an extra 10 million passengers per annum?

24 A. No. The scale of benefits would clearly be different.

25 Q. I suppose we ought to pause and just consider the

1 theoretical alternative position. If you had identified
2 the impacts set out in the report and simply weighed
3 them against the fact that the proposal was, as
4 a generality, supported in the White Paper, do you think
5 the recommendation would have been different?

6 A. Could you repeat the question?

7 Q. Yes. If you had identified the residual impact, as you
8 have done, and simply weighed in the balancing exercise
9 the fact that the proposal, maximum use of Stansted's
10 runway, was as a generality supported by the White
11 Paper, do you think the balancing exercise would have
12 come out in a different way?

13 A. It would have come out in a different way, yes.

14 Q. What would have been the different way?

15 A. I am sorry, I have lost my train of thought.

16 Q. That is all right. We can move on, if that is the best
17 way, and come back to that in another context.

18 What I want to understand from you, Mr Harborough,
19 is this: why is it preferable in your view, as you just
20 explained to us, to look at the specific elements of the
21 need case?

22 A. Because we have a particular proposal which has
23 particular effects. So we need to look at both the
24 environmental and the economic effects and the social
25 effects and consider them on the basis of the specific

1 proposal we have before us.

2 Q. Where did you obtain the data from to consider the
3 elements of the need case and the economic advantages
4 said to be associated with it?

5 A. Well, they were drawn from the relevant volume of the
6 environment settlement submitted with the application.

7 Q. Is that the case for the material that you discussed on
8 trade deficit as well as the material on employment?

9 A. Yes, it is, yes.

10 Q. Let's turn then to the weight attached to the White
11 Paper. There were various conflicting points put to you
12 during the course of the six hours.

13 Can you turn, please, to the statement of common
14 ground? I have that in BAA/20. We have discussed in
15 the past whether that document should be a CD document.
16 It does not matter for these purposes. Page 22, please,
17 paragraph 4.11. This is under the heading "Government's
18 White Paper on Aviation, The Future of Air Transport,
19 December 2003":

20 "The ATWP sets Government policy for providing
21 a strategic framework for the development of air travel
22 over the next 30 years."

23 No surprises there:

24 "The parties agree that significant weight can be
25 attached to the policies contained in the ATWP."

1 Do you agree with that?

2 A. I do, yes.

3 Q. Do you have any qualifications or is that your stated
4 position? I am not asking for a qualification. I just
5 want to be clear, is that your clear position that you
6 have no problem whatsoever in agreeing with it?

7 A. I didn't have any qualifications in agreeing to it.

8 Q. No qualifications. Does "significant" mean
9 "overriding", Mr Harborough?

10 A. No, not necessarily, no.

11 Q. So that's the position adopted, you signed up to, very
12 happy with.

13 Can we look at the committee report, CD34 again?
14 Could you turn, please, in that document to pages 28-29?
15 I am not sure this was expressly drawn to your
16 attention. We looked at the paragraphs that followed.
17 Paragraph 52 starts on page 28 in my version; I am not
18 aware not everyone has the same print-out of this
19 document. Paragraph 52 starts on page 28 and goes over
20 to page 29. This is policy considerations. These
21 comprise national Government policies expressed in White
22 Papers, ministerial statements, planning policy
23 statements, regional spatial strategies, PPGs and
24 circulars, "The Future of Transport, A Network for
25 2030", "The Future of Air Transport White Paper" and

1 "The Sustainable Communities in the East of England,
2 Building for the Future" are, you tell the members,
3 particularly pertinent.

4 A. Yes.

5 Q. You then go on to set out substantial chunks of White
6 Paper, including the quote from section 11 about the
7 first priority being to make best use of the existing
8 runways, including the remaining capacity at Stansted
9 and Luton. That is paragraph 54.

10 A. Yes, that was explicitly before members.

11 Q. Is there any inconsistency between the statement of
12 common ground and the approach you adopted in the
13 committee report?

14 A. No, because significant weight is to be attached to the
15 Air Transport White Paper, it was appropriate to bring
16 members' attention to the most pertinent elements of
17 that White Paper.

18 Q. Had your committee members heard of the White Paper
19 before?

20 A. Oh yes, they had, yes.

21 Q. Did some of them have their own copies of it?

22 A. Yes. I am sure it was distributed to members. Council
23 responded to the consultation draft, which led to the
24 White Paper, and certainly members had taken an active
25 interest in the preparation of the White Paper. So yes,

1 when it was published they were provided with a copy.

2 Q. Thank you. You were asked about paragraph 15 of the
3 report, and I will just refresh your memory as to that.
4 It is in the context of the weight to be attached to the
5 White Paper. It is on page 14. That, I think, is
6 identical to paragraph 97 on page 38 of the report.
7 Turn to that and see where it comes from. It is page 38
8 of the report, paragraph 97, which is the concluding
9 paragraph on the section on the economic issues.

10 A. Yes, that's the way the report was structured. The
11 conclusions on each of the issues is brought forward to
12 the beginning of the report in presentation, which led
13 to the recommendation.

14 Q. I see. So paragraphs 85-96, the context for 97.

15 A. Yes, they are, yes.

16 Q. Where in 97 does it say members should attach limited
17 weight to the White Paper?

18 A. It doesn't say that.

19 Q. What is the general message that the readership take
20 from paragraph 97?

21 A. That the benefits anticipated in the White Paper are not
22 delivered by the specific proposals.

23 Q. Just for the record, Mr Harborough, does the White Paper
24 contain an analysis of particular economic benefits
25 associated with and proportionate to an extra 10 million

1 passengers per annum on the existing runway?

2 A. It doesn't look at that effects of that specific
3 increment, no.

4 Q. Thank you very much.

5 Those are the general matters that I --

6 MR HUMPHRIES: Sorry to interrupt. That is just factually
7 wrong. The Air Transport White Paper considered maximum
8 use of the existing runway to be 35 million and in
9 paragraph 11.26 it says in terms that substantial net
10 economic benefits derive from that.

11 MR HILL: Sir, if Mr Humphries has comments, the time for
12 those are submissions.

13 MR PHILLIMORE: It is something you can take up with your
14 own witnesses as well.

15 MR HUMPHRIES: It is not just that. What I am concerned
16 about is a long re-examination where things which are
17 factually untrue are being put to the witness, which he
18 is then giving answers to, and I can see you are writing
19 down the answers on a completely false premise. Now,
20 that is wrong.

21 I do not want to keep interrupting, but we have --
22 it is like this point about limited weight -- we have
23 Mr Harborough's answers in transcript yesterday, where
24 he said in terms, on more than one occasion, that
25 limited weight had been placed on the economic benefits.

1 Now all that is happening is he is being asked the same
2 questions again and he is giving, or attempting to give,
3 different answers. That is inappropriate.

4 MR HILL: I don't accept that point for one moment. We
5 could have a lengthy argument about that. I just cannot
6 see that that is going to assist the progress of the
7 Inquiry.

8 Sir, I would strongly recommend that my learned
9 friend keeps his comments to his submissions or anything
10 he wants to lead by Mr Rhodes, otherwise we will spend
11 a very, very long time on this exercise and we will
12 probably not get to Mr Rhodes at all.

13 MR PHILLIMORE: I certainly want to avoid a lengthy
14 discussion at this stage. I think they are matters you
15 need to take up with Mr Rhodes and later on in
16 submissions. If there are particular questions you want
17 to raise concerns with, by all means do that.
18 Otherwise, I would like to continue with the
19 re-examination as uninterrupted as possible.

20 MR HUMPHRIES: Sir, I understand that. I will not take them
21 you with Mr Rhodes, they are in the transcript, but
22 I understand the point, of course.

23 MR HILL: Can we now go back to the points that arise from
24 the questions in the order in which they were put.
25 Unfortunately for you, Mr Harborough, you have to cast

1 your mind right back to the beginning of the
2 cross-examination, which is now some time ago, but if
3 you are able to do that then I should be grateful.

4 The first matter that was canvassed with you was the
5 adequacy of information in the environmental statement
6 and the reflection of that in the reasons for refusal.
7 I just want to be sure that we are clear and that the
8 inspectors are clear about the current state of play in
9 that regard.

10 Could you take up, please, Mr Mitchell's rebuttal?

11 A. I have his proof, but I don't think I have his rebuttal.

12 Q. Perhaps one could be passed to you; it is only three or
13 four pages.

14 Could you turn, please, to paragraph 2.1 and the
15 second part of that? This is in the context of quality
16 of life and the information before the Council on that
17 issue. This is the rebuttal proof answering Mr Rhodes.
18 In the second half of 2.1 Mr Mitchell says:

19 "At the heart of our concerns was the lack of any
20 effort by BAA to grapple with issues affecting local
21 communities beyond the usual criteria and thresholds set
22 out in the EIA legislation. The airport expansion
23 proposals the subject of this appeal are a matter for
24 huge local and wider controversy, raising issues
25 concerning the impact on communities which require

1 analysis as part of the application process. These
2 issues were not and have not been properly addressed."

3 Has that position changed as you prepare to leave
4 the witness table?

5 A. No. No, it has not.

6 Q. Then reason for refusal number 4, air quality, you
7 recall that a central part of that reason for refusal --
8 we can look it up in CD42 or in the committee report; in
9 the committee report it is on page 16, in CD42, it is
10 item 4. The central part of that reason for refusal was
11 that insufficient real data was available to ensure
12 an accurate assessment.

13 I think you were here for Mr Moorcroft's evidence.
14 Has that position changed?

15 A. No, the District Council is currently continuing to
16 obtain real data for that purpose.

17 Q. I think you were in the room when Dr Gibson said, and I
18 will quote exactly what he said:

19 "Real data should be given greater priority
20 than model data. All models can give unrepresentative
21 results. Real data is applauded and welcomed."

22 That's his re-examination on Day 4. Do you have any
23 reason to disagree with that approach?

24 A. No.

25 Q. In summary, Mr Harborough, do UDC's concerns about the

1 adequacy of information in the environmental statement
2 remain?

3 A. They do remain.

4 Q. We need to turn to the next matter that was put to you,
5 mitigation and conditions. We need to unravel that in
6 the way it was put. Do you have before you the letter
7 accompanying the planning application, which I think is
8 part of CD1? If not, could you be passed it?

9 A. I do have it.

10 MR PHILLIMORE: We are still looking for our copy. Bear
11 with us, please. While we are looking, can you just
12 confirm the date of that, please?

13 MR HILL: Sir, it is 26th April. In my clip it is not the
14 front document, it is found somewhere within the various
15 pages that comprise CD1, towards the back:

16 MR PHILLIMORE: Is there a copy to hand that we could use,
17 a spare one essentially?

18 MR HILL: I am sure there is.
19 Do you have that, Mr Harborough?

20 A. I do.

21 Q. As we see from the date, 26th April 2006, the letter
22 accompanying the application made on that date. If you
23 just turn in that document through, please, to page 3,
24 there is a heading about one third of the way down the
25 page that says "Supporting Documents". Do you have

1 that?

2 A. I do.

3 Q. The text refers to the environmental statement,
4 including a full assessment of the proposed development.
5 This has been prepared, it says, having regard to the
6 Council's scoping opinion and rating response to the
7 scoping report submitted by the Airport in July 2004:
8 "Where potentially significant effects have been
9 identified during the assessment, mitigation of measures
10 and enhancement/compensation measures are proposed and
11 will be discussed with the Council's officers during the
12 determination of the application."
13 Do you have that?

14 A. Yes, I do, yes.

15 Q. When were such mitigation/enhancement/compensation
16 measures first proposed by BAA?

17 A. Well, some were indicated, of course, in the submitted
18 environmental statement, but those were added to by
19 further proposals on 9th November.

20 Q. Thank you. Just looking at the point generally, when
21 an applicant proposes a development which is an EIA
22 development, which gives rise to environmental impacts,
23 who, in your experience, bears the primary
24 responsibility for proposing mitigation and compensation
25 to address such impacts?

1 A. The applicant. That is one of the purposes of the
2 environmental statement, to identify the effects and to
3 assist with the identification of appropriate
4 mitigation.

5 Q. We have seen these BAA proposals arriving on
6 9th November. When did the report to the committee have
7 to be submitted?

8 A. The committee itself was on the 29th. The report had to
9 be published in advance of that.

10 Q. How far in advance of that?

11 A. About ten days in advance of that.

12 Q. Were the proposals that arrived on 9th November reported
13 to members?

14 A. Yes, they were, yes.

15 Q. I will just make sure we all have the same version of
16 this document. We have the committee report again,
17 CD34. The proposals you told me about a moment ago, in
18 terms of identifying them, are those annexed to the
19 report?

20 A. They are, yes.

21 Q. Just turn to page 14 of the report, paragraph 16; do you
22 have that?

23 A. I do.

24 Q. About five or six lines up from the bottom you see
25 a sentence:

1 "The obligations unilaterally tabled by BAA are
2 inadequate."
3 A. Yes.
4 Q. Does that sentence refer to the material that arrived on
5 9th November?
6 A. Yes, it does.
7 Q. Thank you. Just assume for the purposes of this
8 question that the burden of proposing mitigation is
9 reversed and falls upon the local planning authority.
10 A. Yes.
11 Q. In your view, Mr Harborough, is it possible for a local
12 planning authority to form a concluded view on what
13 mitigation might be necessary prior to forming
14 a concluded view on the level of impacts associated with
15 the proposal?
16 A. No, no. The impacts need to be settled before
17 mitigation can be considered definitively.
18 Q. We have seen since the committee report further
19 proposals coming forward from BAA. I understand more
20 are expected shortly. You have indicated an intention
21 to take the mitigation package back to committee. Will
22 you give BAA a period, as it were, to produce a final
23 set of mitigation proposals before taking it back to
24 committee?
25 A. Yes, indeed.

1 Q. From what you have seen so far, Mr Harborough, is the
2 mitigation on the table adequate to address or cure the
3 residual impacts that have been identified?

4 A. No.

5 Q. It was put to you that the mitigation should have been
6 taken back to committee before reasons for refusal were
7 issued. When did you have these proposals that we have
8 seen forthcoming in relation, for example, to noise?

9 A. They have only relatively recently emerged in the last
10 couple of months.

11 Q. What were you told by BAA about the need for a final
12 determination of the application on 29th November?

13 A. Well, BAA indicated that it wasn't prepared to extend
14 the time period for determination of the application
15 beyond 29th November.

16 Q. The suggestion was made to you that the Council was --
17 I paraphrase -- in some way dragging its feet and this
18 was, after all, just an application for a variation of
19 a condition. Do you remember those points being made?

20 A. Yes.

21 Q. How many volumes are there in the environmental
22 statement, Mr Harborough?

23 A. Sixteen, I think.

24 Q. Then there is the HIA and the sustainability appraisal.
25 How many days of hearings and member briefings did the

1 Authority have to go through?

2 A. I can't remember the precise number, but ...

3 Q. Let us have a look at the committee report and see how
4 it is dealt with there. Page 15, paragraph 17, of the
5 report.

6 A. The number is recorded there.

7 Q. "The planning application has been the subject of
8 exhaustive scrutiny over the course of some 19 special
9 meetings."

10 How much time elapsed between the submission of the
11 application in April and the committee on 29th November?

12 A. Many months.

13 Q. About seven months, is it not?

14 A. It is.

15 Q. Is there any sense in which the members were not working
16 hard to process this application?

17 MR HUMPHRIES: I really tried, sir, not to interrupt with
18 leading questions. "Is there any sense in which members
19 were not ...", that is just a very leading question and
20 there have been a number of them.

21 MR PHILLIMORE: Do you want to rephrase that one, please?

22 MR HILL: Of course.

23 How much effort did officers and members put into
24 the exercise of processing this application,
25 Mr Harborough? If that is really objectionable.

1 A. Members and officers put an extensive amount of time
2 into scrutinising the application and the documents that
3 supported it.

4 Q. How long did the 15 to 25 million planning permission
5 take from the date of the application to the date of
6 commission?

7 A. It took years.

8 Q. Years. You were taken to one passage in circular 8 of
9 93, annex 3. I have my own copies, I have not used the
10 core document. I am afraid I have mislaid the
11 reference. It is 118. If we can just take that out and
12 look at annex 3, please. Paragraph 11 is the one that
13 is mentioned. Do you have that?

14 A. I do.

15 Q. The passage that was put to you was the opening passage
16 in paragraph 11:

17 "Wherever appropriate, planning authorities will be
18 expected to show that they have considered the
19 possibility of imposing relevant planning conditions on
20 a grant of permission which would allow proposed
21 development to proceed and that they have considered any
22 conditions proposed to them before refusing permission."

23 In your view, Mr Harborough, is this a case where
24 the imposition of planning conditions would have allowed
25 the application to be permitted?

1 A. No.

2 Q. Thank you. You can put that away.

3 Turning on to some other matters, there were
4 a number of questions put to you about the 2001
5 application ultimately granted in 2003. Do you remember
6 those?

7 A. I do.

8 Q. You were asked these questions by reference to the
9 committee report on the 2003 permission. Again, I have
10 my own copy, so I have not put the reference down. If
11 you could find that, please, I should be grateful.

12 A. CD27.

13 Q. It is CD27. Can you turn in that, please, to
14 paragraph 21, page 43, where you are setting out to the
15 members your consulting advice to the Council and the
16 passage in the middle:

17 "Passenger and freight services provided by
18 Stansted Airport are the key elements of the product
19 offer to the inward investor in order to ensure that the
20 east of England and north-east London compete
21 effectively in the increasingly competitive inward
22 investment market."

23 We see how that was relied upon. You discussed that
24 with Mr Humphries. Has that manifested itself since
25 this report was written?

1 A. Well, as we rehearsed yesterday, the passenger services
2 are primarily to leisure destinations. They do carry an
3 element of business passengers.

4 Q. Really I am interested in whether you have seen evidence
5 of inward investment which relates to provision of
6 passenger and freight services provided by
7 Stansted Airport you are aware of as an authority?

8 A. Well, there is some limited evidence, but it is limited.

9 Q. You refer there to freight, freight services. Have the
10 freight forecasts manifested themselves?

11 A. Not in terms of tonnage handled, no.

12 Q. Thank you. Then it was put to you that you went to your
13 consulting in 2001, or the 2001 application, but had not
14 done in connection with this application. Why was it
15 not felt necessary to instruct economic consultants in
16 connection with this application?

17 A. Because of the evidence to be found within the
18 environmental statement provided by the applicant.

19 Q. You have answered my next question. Thank you.

20 You are about to leave the witness stand, we have
21 seen the view you express in your report and the view
22 you express in your proof. Have you, since writing
23 those observations, seen any detailed evidence of
24 economic gains associated with this proposal that would
25 change your view as expressed in your proof and your

1 rebuttal?

2 A. No, I haven't, no.

3 Q. We then moved away from economic issues and moved on to

4 consider the impacts associated with the 15 to 25 MPPA

5 application. It was put effectively that members were

6 content with the impacts predicted in the 2001

7 application. We have seen the report to committee, the

8 report to committee that is CD27, which we have just

9 been flicking through. Was that report simply accepted

10 by the members in June 2002?

11 A. No. There was considerable debate about the

12 recommendation.

13 Q. What happened? It may be you need to provide a note for

14 the inspectors on this, but was it quickly resolved, the

15 considerable debate?

16 A. No, it was not. The original recommendation was put, as

17 I recall, possibly in April of 2002 and the

18 recommendation to grant planning permission was approved

19 by members, subject to section 106 agreement, in

20 September and then it took some further period, until

21 I think it was January, to actually get the final

22 resolution to approve the 106 obligations.

23 Q. As part of that, so far as you can recall, were there

24 concerns from members about the impacts of this

25 increase?

1 A. Considerable concerns, yes.

2 Q. If it is helpful to you, sir, we can just provide
3 a short note of what happened when, on a page of A4, in
4 relation to process.

5 Thank you. That is helpful, Mr Harborough.

6 Turning on then, the SERAS extract, and I just want
7 to spend a brief moment looking at that with you. This
8 is UDC1E. This is really done for clarification. We
9 took this point whilst you were considering the
10 2001-2003 application. We took it first time round and
11 we also took it again yesterday. Page 107. There was
12 that point at the bottom of the page about explicit
13 appraisal of developments within current planning
14 permissions.

15 Sorry. You have not found it?

16 A. I have now.

17 Q. "Explicit appraisal and developments within current
18 planning permissions for the maximum use of facility has
19 not being undertaken as these have been deemed to be
20 confined within existing airport boundaries."

21 On the position of land take the position is
22 entirely clear. So far as maximum use of facilities
23 within SERAS is concerned, is there anywhere within the
24 SERAS documentation, not necessarily this section,
25 a comprehensive appraisal of the environmental impacts

1 of maximum use of the existing runway at Stansted?

2 A. Not a comprehensive appraisal. Some aspects were
3 considered, which I identified, in relation to noise and
4 air quality, but it wasn't a comprehensive assessment.

5 Q. We can move on from that then. Thank you.

6 Again, we went back to the 2001-2003 planning
7 permission and the weight that was being attached to the
8 economic case was a matter you were then asked about
9 again. You indicated in one of your answers that it was
10 implicit that you were asking the members to attach
11 weight to the wider gains being urged by your consulting
12 the Council's advisers. I just want to put that in
13 context. What was the thrust of the York advice about
14 the economic importance of expansion from 15 to 25 MPPA?

15 A. The York advice pointed to the significant wider
16 economic benefits of those particular proposals.

17 Q. Thank you. You referred then in your next answer to the
18 fact that one actually struggled to identify what the
19 wider economic gains were. You said one indicator is
20 business passengers. Do you remember that answer?

21 A. Yes.

22 Q. Can I just ask you to look at the consultation draft to
23 the White Paper so we can see whether your answer fits
24 into a broader picture? The consultation draft is
25 CD113. That is this document. There are two versions

1 and they sometimes look similar. It is the February one
2 that is the one that was produced post the judicial
3 review. Do you have the correct version, Mr Harborough?

4 A. I do.

5 MR PHILLIMORE: I am struggling to find the date.

6 MR HILL: There was an earlier one the previous year and
7 there was a judicial review in the Medway case.

8 Can we just look at paragraphs 14.35 and 14.36.
9 They are quite short. I just want to see how your
10 answer relates to the picture painted in the White Paper
11 consultation. I have this on pages 130 and 131.

12 Paragraphs 14.35 and 14.36:

13 "The potential effect of increased airport
14 investment and air services on productivity across the
15 economy can be gauged from the total additional business
16 travel that is made possible."

17 Then 14.36:

18 "One way of measuring the effects of additional
19 airport capacity following direct investment is to
20 consider the number of business trips by the full list
21 as shown in the first column."

22 I just want to understand from you how significant
23 you understand that indicator to be in the absence of --
24 let me be clear. You say you struggled to identify what
25 they are. How significant is the indicator that the

1 business passengers provides?

2 A. Well, the development of national policy suggested it
3 was clearly significant.

4 Q. Thank you. I will move on.

5 Again, still on the comparison between 2003 and to
6 date, you explained in an answer upon the question of
7 impacts that officers and members' perception was that
8 things had shifted. Do you recall that? That's between
9 the position in 2001 and 2003 and the position today.

10 A. Yes.

11 Q. What are the factors that led you to form the view,
12 Mr Harborough, that the noise impacts are now reaching
13 a level where the Council regards them as unacceptable?

14 A. Representations were clearly an important factor in the
15 Council's assessment.

16 Q. Thank you very much. They are all before the Inquiry.

17 Then there are some questions which I put under the
18 heading "propriety". Various pops were taken at the
19 Council and the way in which it had taken its decision.
20 Can you help me with this, Mr Harborough: what effort
21 did Council officers take to ensure that this decision
22 was made on the basis of material planning
23 considerations only?

24 A. Council officers went to considerable lengths to ensure
25 that that was the case.

1 Q. Did the members accept the officer's recommendation in
2 November?

3 A. They did.

4 Q. Were the officers standing for re-election the following
5 year?

6 A. No.

7 Q. Just help me with this. What did Council teams in Ware
8 and Sudbury and Dedham Vale know or care about
9 Uttlesford elections?

10 A. They were not involved in electing members of Uttlesford
11 District Council.

12 Q. What did Natural England and the National Trust and the
13 Environment Agency and English Heritage care about the
14 Uttlesford elections?

15 A. It wasn't a factor in the representations they made.

16 Q. Can we go back to the sentence you were particularly
17 asked about in your proof, page 3 of 45, paragraph 3.6.
18 The first sentence:

19 "Finally, the balancing of economic, social and
20 environmental considerations is explained."

21 The same as the brief does. Then the sentence you
22 were particularly asked about:

23 "Necessarily the balance has been struck from the
24 perspective of the officers and elected members of the
25 local planning authority."

1 How else, Mr Harborough, could the officers and
2 members strike a balance and take the decision in this
3 case?

4 A. Well, members clearly brought their local knowledge of
5 the area to the decision in weighing the national policy
6 context and the local effects.

7 Q. Is there anything wrong with that, in your opinion?

8 A. No.

9 Q. So is there anything wrong about having a local
10 perspective?

11 A. No.

12 Q. Thank you. You can put that away.

13 Then you went on to a point being made that the
14 decision needed to be taken in the national and regional
15 interest. That's the way it was put to you. Because
16 the decision needs to be taken in the national and
17 regional interest, Mr Harborough, does that mean that
18 the national and regional interest will always override
19 the local impacts?

20 A. No, it is part of the process of determining planning
21 applications to look at the local effects and to weigh
22 those local effects against the national and regional
23 perspective, as expressed in the policy.

24 Q. Thank you.

25 Then we went on to the question of matters settled,

1 before those points had been put to you, much reference
2 to matters settled. Just pause for a moment to reflect
3 upon the UDC evidence: Mr Turner's analysis of the noise
4 impacts; ATMs at various specific locations; Mr Sivell
5 and Mr Mitchell's evidence on quality of life;
6 Dr Gibson's importance on the importance of Hatfield
7 Forest and the risks associated with it; and
8 Mr Moorcroft's evidence on air quality and the recent
9 results obtained. What part of that evidence has
10 already been anticipated and discussed and settled by
11 Government policy?

12 A. Well, this was new material which was not taken into
13 account in determining national policy.

14 Q. Then just a point on the figures which were put forward,
15 to make sure we have got it right. It was put to you
16 that the White Paper doesn't seek to meet unconstrained
17 demand, and you said you thought it was about 40 MPPA
18 short. Let me just make sure we have the figures right
19 there. Do you have Mr Rhodes rebuttal? BAA/1/D,
20 paragraph 2.4, page 2. Do you have that?

21 A. I do.

22 Q. The second sentence:

23 "... ATWP ... reached conclusions on the extent to
24 which the country should meet demand ... Out of a
25 forecast demand [this is an unconstrained demand up to

1 2030] 490 million passengers per annum, the Government
2 has set out proposals to provide airport capacity for
3 465 million passengers per annum ..."

4 So how far short of it from unconstrained demand
5 being met?

6 A. 25 million, in fact.

7 Q. Right. Thank you. Then more questions on the White
8 Paper and the large net economic benefits referred to in
9 paragraph 1126 on page 114, and you gave the answer:

10 "Well, yes, we acknowledge the large net economic
11 benefits because of the generated passenger benefits."

12 What I want to understand from you, Mr Harborough,
13 is this: does the White Paper contain any specific
14 analysis of what one might call the real economic gains
15 associated with maximising the use of the existing
16 runway at Stansted, beyond, that is, job protections?

17 A. It doesn't have --

18 MR HUMPHRIES: Sir, here we go again, the question implying
19 that the benefits are not real.

20 MR HILL: It is Mr Harborough's own words in his evidence.

21 MR HUMPHRIES: Sir, I am being pretty good about this.

22 An open question in re-examination would be, "What does
23 the Air Transport White Paper tell us about the
24 benefits?" That would be a proper question.

25 MR HILL: I can't have my re-examination redrafted by

1 Mr Humphries to suit him.

2 MR PHILLIMORE: Do you want to put the question? I don't
3 have a particular problem with it, but if you can reput
4 it, please.

5 MR HILL: Where were we? The starting point was your answer
6 accepting the generated passenger benefits. You
7 describe them in your proof as theoretical, notional. I
8 don't want to go back to that. You accept that. I want
9 to understand whether the White Paper contained any
10 specific analysis of the "real" -- your word -- economic
11 benefits associated with maximum use of the existing
12 runway beyond job protections?

13 A. It didn't carry out a detailed analysis of the
14 regeneration and catalytic effect.

15 Q. Thank you. Let's move on.

16 We had climate change twice, but I am going to come
17 back to that on the second occasion when it was put to
18 you, which was yesterday. So we are now on to questions
19 that relate to cross-examination yesterday. There are
20 one or two points arising from the policy background.
21 Could you please take out CD74? It is the plan as
22 drafted. Do you have that one?

23 A. I do.

24 Q. This is just really a point of clarification.
25 Paragraph 6.53 and 6.54 you were asked about. This is

1 EERA making a point about the role of Stansted and
2 Luton Airports and the fact that they can provide
3 a useful catalyst for economic generation, likely to be
4 a positive outcome for local communities resulting from
5 the growth of Luton, Norwich and Southend Airports. Can
6 you explain why the local authorities in EERA focused on
7 the regeneration issues in those particular communities?

8 A. I don't know for certain but I suspect it was because
9 those particular communities, through their local
10 authorities, were expressing support for airport
11 development proposals because of the perceived economic
12 regeneration benefits.

13 Q. Thank you.

14 CD75 is the next one, the EIP panel report, you
15 looked at paragraph 5.99. We have got the date of the
16 EIP on the front. It seems to run 1st November to
17 16th December 2005 and 17th January to 1st March 2006.
18 It was put to you, I think, that Uttlesford had not
19 objected to the draft plan support for increased use of
20 the existing runway. At the time of the EIP,
21 Mr Harborough, was there a planning application for EIA
22 available which addressed the impacts of the
23 maximisation of the use of the existing runway?

24 A. Well, no, because the application was submitted in
25 April, after 17th March -- after 1st March.

1 Q. Then page 74, paragraph 5.10, part of this was read out
2 to you, in particular the last sentence.

3 MR PHILLIMORE: I missed that reference.

4 MR HILL: Sorry, paragraph 5.100. No wonder you cannot find
5 it on page 74. 5.100, page 74. The last sentence was
6 put to you:

7 "It is in that sense immaterial whether the RSS
8 'supports' one runway or two, and we conclude that the
9 first sentence of draft plan policy ST5 and other
10 similar references in policy E14 and the supporting text
11 are inappropriate."

12 Can you just look back at the sentence before that,
13 the penultimate sentence in paragraph 5.100:

14 "Although supported by the ATWP, a second runway
15 remains to be brought forward and considered through the
16 proper statutory processes."

17 Then one has a sentence there that in that sense it
18 is immaterial whether the RSS supports it or not.

19 To what extent do those principles apply equally to
20 maximum use of the existing runway?

21 A. They apply to any particular proposal, specific set of
22 proposals which are the subject of an application.

23 Q. Then the general questions about the RSS. Does the RSS,
24 Mr Harborough, consider the detailed implications of
25 either maximum use or second runway to any greater

1 degree than the Air Transport White Paper itself?

2 A. No. The RSS did not involve itself in that sort of
3 exercise. It primarily considered whether or not the
4 housing and employment provision of the plan was
5 consistent with two runways at Stansted.

6 Q. Then in CD76, page 114, we looked at policy E8 and the
7 reference to development proposals needing to be
8 informed by the ATWP and other policies of the RSS. In
9 your view what does "informed by" connote?

10 A. They obviously are going to have reference to and apply
11 suitable weight to them.

12 Q. Thank you. Then we went on within this document, CD76,
13 to look at the relationship between growth at Stansted
14 and Harlow. Remember those points?

15 A. I do.

16 Q. First of all, what evidence have you seen of catalytic
17 growth on any scale at Harlow arising from a Stansted
18 operating at nearly 25 MPPA?

19 A. Well, I am not aware of any significant effect. I am
20 sure there is some effect, but if it had been on
21 a substantial scale I think I would have been aware of
22 it.

23 Q. In that context you will recall we looked at the core
24 document 113, which is the consultation draft to the
25 White Paper and those paragraphs 14.35 and 14.36, and

1 liking at predicted business passengers to gauge likely
2 gains to the wider economy. Do you remember those
3 points?

4 A. Yes.

5 Q. What does the evidence about predicted business
6 passengers in this Inquiry tell us about the likelihood
7 of significant economic gains through catalytic
8 development to somewhere such as Harlow?

9 A. Well, the evidence suggests there will be limited growth
10 in the number of business trips and, as a consequence,
11 therefore the catalytic effect is likely to be similarly
12 limited.

13 Q. You still have CD76 to hand I hope?

14 A. Yes.

15 Q. I just want to understand points that have been made to
16 you about paragraph 4.36 on page 116, just to put that
17 in context:

18 "The sum of housing allocations for the Harlow, East
19 Herts and Uttlesford districts should be sufficient for
20 both airport-related and all other housing needs, though
21 this will need to be kept under review as the airport
22 develops. The substantial growth in housing at Harlow
23 should provide for a growing number of Stansted
24 employees to live there, from where they can reach the
25 airport conveniently by public transport."

1 Is that, in your view, a reference to direct
2 employment or to catalytic developments such as
3 Mr Humphries was canvassing?

4 A. I think it is quite clear that it is a reference to
5 direct airport employment.

6 Q. How many additional employees are predicted to arrive
7 from Harlow under the direct category?

8 A. Well, on the basis of the volume in the addendum, 190.

9 Q. To what extent do you think the Secretary of State
10 appreciates that we are talking about 190 employees in
11 the context of maximum use?

12 MR PHILLIMORE: We think that figure may have been 170
13 rather than --

14 MR HUMPHRIES: Yes, sir, it is 170.

15 MR HILL: It is 170 in the original TA, 190 in the addendum.
16 It is slightly confusing.

17 Just going back to that point, substantial growth.
18 We talked about the number of employees reaching the
19 airport by public transport. What do you think the
20 Secretary of State has in mind here? Is this growth
21 arising from maximisation of the existing runway or is
22 it runway 2 or what?

23 A. No. This assessment is based on the scenario of a two
24 runway airport at Stansted.

25 Q. The last point on this issue: is Harlow District Council

1 a vocal and enthusiastic supporter of this application?

2 A. It has reservations about its effects.

3 Q. Moving away from that, put your CD76 to one side.

4 We then looked at the structure plan. Just one

5 point on this. CD59, paragraph 10.40 on page 122. It

6 was put to you that Stansted Airport is of national

7 strategic importance. What's the date of this structure

8 plan document, Mr Harborough?

9 A. 2001.

10 Q. Right. So was that statement written before or after

11 the permission to extend to 25 MPPA?

12 A. Well, it was clearly before the grant of that planning

13 permission and before the Air Transport White Paper as

14 well.

15 Q. In your view, will Stansted still be of national

16 strategic importance without the extra 10 MPPA that

17 takes it to 35?

18 A. Yes, I think we were looking at the CAA 2005 passenger

19 statistics yesterday and I think that demonstrates it is

20 clearly of national strategic importance.

21 Q. Then questions about policy BIW9. I am not going to go

22 through all the various criteria, but there seemed to be

23 some criticism of the approach of the policy and whether

24 a developer could judge whether the criteria had been

25 adequately addressed. In your experience as a planner

1 over many years is there anything unusual about the
2 approach of BIW9 setting out criteria/issues to consider
3 on an application?

4 A. No. A fairly standard approach would indicate in policy
5 the most relevant considerations to be taken account in
6 applying those.

7 Q. Then NR5. You gave a number of answers about NR5 and at
8 the end you said you thought there was a close
9 relationship between biodiversity and historical
10 importance.

11 A. Yes.

12 Q. Just for the record, so we know what your final position
13 is, is NR5 relevant or not to this Inquiry?

14 A. In my view it is relevant, yes.

15 Q. Put the structure plan CD59 away. Look at the local
16 plan, CD57. I have a couple of questions on this.
17 Page 5, paragraph 1.14; remember this?

18 A. I do, yes.

19 Q. You have seen this before. Houses with strong positive
20 attributes, mainly rural environment, productive farm
21 land, historic small towns and villages, good access to
22 London's job opportunities, cultural and sporting
23 attractions, shopping to Cambridge, with the further
24 range of job opportunities and leisure activities that
25 this university city provides. Wisely no reference to

1 Oxford. I will not express --

2 A. Somewhat inaccessible, Oxford.

3 Q. -- a personal view on that. What public transport link
4 exists between Uttlesford and London and Uttlesford and
5 Cambridge?

6 A. Well, of course there is the rail link, supplemented by
7 local bus services to Cambridge and coach services to
8 London.

9 Q. Then it was put to you, as it were, that Uttlesford was
10 being inconsistent in making that point in its plan and
11 being anxious about increased long distance commuting
12 for jobs at Stansted from the outer study area. We will
13 come back to this when we come to surface access issues,
14 but how good are the train links between Chelmsford and
15 Stansted, Colchester and Stansted, and Epping Forest and
16 Stansted?

17 A. A trip by rail from those locations to Uttlesford would
18 involve travel via London termini, with the exception of
19 one station in Epping Forest, Roydon, which is
20 a relatively small community on the West Anglia
21 mainline.

22 Q. Is that a swift journey?

23 A. Travel via London.

24 Q. Yes.

25 A. No. It would be lengthy; typically an hour and a half.

1 Q. Then some specific questions about policies in the plan.
2 You were asked about policy GEN1, whether that was
3 relevant. Could you just take out Mr Rhodes' proof,
4 please, the main proof? This is not the bundle I was
5 asking about earlier.

6 A. Yes, I have it, yes.

7 Q. Page 39. Paragraphs 9.4 and 9.4 dealing with GEN2. Do
8 you see that?

9 A. I do recall these paragraphs, yes.

10 Q. GEN2 is issue and design. Then 9.5, Mr Rhodes says:

11 "This policy is not readily applied to the G1
12 proposals which seek to vary two planning permissions
13 relating to aircraft and passenger numbers rather than
14 to construct buildings. Nevertheless, I recognise that
15 the sentiments of the policy are appropriate and that
16 there is a need to consider the impact of the proposed
17 development of the amenities with its neighbours."

18 Do you agree with Mr Rhodes on that point?

19 A. Yes, I do. I have noted that and yes, I agree.

20 Q. Then you have some discussion about GEN7. We will just
21 remind ourselves what that is about. CD57, page 18,
22 paragraph 3.17. Nature conservation policy. The point
23 has been made it is not referred to in the reasons for
24 refusal.

25 Mr Harborough, does the reference to GEN7, effects

1 on wildlife, does that raise a new issue that has not
2 been previously notified to BAA.

3 A. No, it doesn't, no.

4 MR HILL: I'm doing well. I am just seeing how far we have
5 got to go, sir, and whether you will be irritated with
6 me if I don't suggest breaking. I think I am about
7 right at the upper band of my estimate. I think I will
8 be about another half an hour. I am in your hands as to
9 what we do.

10 MR PHILLIMORE: Have we finished with the local plan?

11 MR HILL: Yes.

12 MR PHILLIMORE: I think we will take a break now. It is

13 11.30. If we break until 11.45.

14 (11.30 am)

15 (Short break)

16 (11.45am)

17 MR PHILLIMORE: If we can resume, Mr Hill.

18 MR HILL: Mr Harborough, we dealt with the local plan. The
19 next document I wanted to seek clarification of was
20 CD148.1, which is the next document that was put to you.
21 That is the plan, I think, or the resolution of the
22 Council with a draft corporate plan attached to it and
23 extracts which were then adopted. We looked, I think,
24 at page 2/34, with purpose, goals and themes. This is
25 the Council having identified ways in which quality of

1 life could be improved. One has them set out. I will
2 not read them out.

3 MR BOYLAND: I think you are letting your voice drop. If
4 you try to speak up.

5 MR HILL: I will try to speak up.

6 Those five points are the ways the Council has
7 identified in which quality of life would be improved.
8 It was put to you that prosperity and the economy were
9 not identified as a specific goal for UDC. Why are
10 economic matters not a priority issue for Uttlesford?

11 A. Well, of course, these priorities had been identified
12 through a process of community engagement. So they
13 reflect the community views in Uttlesford as to what the
14 priorities are and, as we know, there are relatively few
15 unemployed people in Uttlesford, but there are some
16 skill issues and that is why we have the fifth bullet
17 point.

18 Q. Thank you. Can you just confirm the date on which this
19 corporate plan was adopted?

20 A. 25th April 2006.

21 MR PHILLIMORE: Mr Harborough, I think the reverse. If you
22 keep back from the microphone.

23 MR HILL: It seemed to be going all right this morning, sir,
24 so I don't know what has happened during the short
25 adjournment.

1 25th April last year. To what extent would this
2 have been in the minds of officers and members at the
3 time when the application was being determined in
4 November?

5 A. Well, it was clearly the current corporate plan policy.

6 Q. Thank you very much. Then criticism was made of the
7 evidence available at the time of determining the
8 application, principally in relation to the quality of
9 life reason for refusal. You said the Council had sound
10 evidence at the time of determining the application.

11 Can you just help me with one point arising from the
12 committee report, CD34? I want to understand the extent
13 to which the material relating to quality of life could
14 properly be categorised as anecdotal. Can we look at
15 paragraph 213 on page 60, going over to page 61? This
16 is the conclusion on residential and urban areas
17 affected by the proposals:

18 "The absence of a quality of life assessment means
19 the effect of the airport on the cohesion of local
20 communities cannot properly be addressed. There is
21 growing evidence that the various networks which
22 underpin small rural communities are breaking down
23 because of the economic pressures created by
24 accommodation needs associated with the airport. This
25 evidence is supported by SSE documentation, the

1 experience of local board members and complaints to the
2 Planning Enforcement Service."

3 To what extent, in your view, Mr Harborough, is it
4 fair to categorise that material as mere anecdote?

5 A. It is clearly more than that. We have got the direct
6 experience of councillors living in the communities and
7 talking to the residents of those communities, and we
8 have got the evidence of the case Local Planning
9 Enforcement Service.

10 Q. Thank you. Then there seemed to be criticism of the
11 Council undertaking its further survey work in February
12 and March via Parish Councils. I just want to
13 understand your approach: this is a matter of principle.
14 In your view, Mr Harborough, is there anything wrong in
15 principle with supplementing material in a committee
16 report in proofs of evidence to an inquiry?

17 A. No. That would be a standard approach, to develop the
18 material and supplement it with further investigations.

19 Q. Has BAA supplemented the material in its environmental
20 statement in the evidence to this Inquiry?

21 A. Yes, it has, yes.

22 Q. On that you can put the CD148.1 document away.

23 Then questions about the sufficiency of information
24 before the Council, in general terms, to enable it to
25 take a decision. You made it plain that it took the

1 decision on the basis of the information available at
2 the time. That is what you said. That was incomplete,
3 it was put to you, and you said it was never possible to
4 be fully informed on every matter.

5 Now, of course, we have more information about the
6 impacts than was available at the time of the
7 determination; we have more information about
8 mitigation. Does that lead you to take a different
9 view, Mr Harborough, about the acceptability of the
10 residual effects?

11 A. No. It confirms the judgment made in November.

12 Q. Let's move on to CD88, which you were asked about. I
13 will try to take this relatively quickly. This is the
14 progress report, for those who do not have the CD
15 document list logged. CD88. More or less the same
16 point appears in two places in this document. I have
17 a different version to you and the inspectors I think.
18 I have something that has come from the Internet.
19 Paragraph 1.6. I have it on page 4, but I think you
20 will probably have it on some other page.

21 A. Page 8.

22 Q. This is in the context of the third of the bullet points
23 under paragraph 1.6, where we read the Government
24 saying:

25 "We propose to consult on the development of a new

1 emissions cost assessment to inform ministers' decisions
2 on major increases in aviation capacity. This
3 assessment will consider whether the aviation sector is
4 meeting its external climate change costs."

5 It was put to you that these decisions, ministers'
6 decisions, relate to policy decisions such as the Air
7 Transport White Paper.

8 A. It was, yes.

9 Q. We know -- well, you remind us. What is the period the
10 Air Transport White Paper is supposed to cover?

11 A. It looks forward to 2030.

12 Q. What view do you take of the proposition that that
13 reference refers solely to ministerial decisions in
14 a future Air Transport White Paper or similar document?

15 A. I think it is difficult to put that interpretation on
16 it, because in my analysis those policy decisions have
17 already been taken in the Air Transport White Paper.

18 Q. It was put to you it does not specifically mention
19 development control decisions in that passage. What is
20 your view, nonetheless, about its potential application
21 to development control decisions?

22 A. Well, in my view it potentially does apply to such
23 decisions.

24 Q. Thank you. Then I suppose just as a footnote to that,
25 reading the document generally, how important does the

1 emissions cost assessment appear to be in the context of
2 what the Government is trying to achieve?

3 A. Well, my review of the document, it seemed to be quite
4 significant. Clearly the Government places importance
5 on the EU emissions trading scheme, but seemed to be
6 acknowledged it didn't have control as to when that
7 might be implemented and, therefore, it needed to put in
8 place the emissions cost assessment mechanism.

9 Q. Thank you. That is helpful. Put that document away,
10 now, CD88.

11 Then there was a passage where it was put to you
12 that the approach to environmental effects in the White
13 Paper was to controlling and mitigating. Do you
14 remember that?

15 A. I do.

16 Q. Indeed, it does take that approach. You told us just
17 a few moments prior to that that you considered the
18 residual impacts unacceptable. Were your answers in
19 respect of what the White Paper says about controlling
20 and mitigating intended to change the position about the
21 unacceptability of residual impacts?

22 A. No, they were not, no.

23 Q. Turn on then. We have dealt with that.

24 Those of you who keep a check of these things, we
25 are now on matters arising from the last passage of

1 cross-examination that began at 4.00 pm yesterday
2 afternoon.

3 A number of questions were put to you about the
4 social issues arising from being able to fly to places.
5 You will remember those points put to you from the White
6 Paper. Could you just, please, turn to the committee
7 report, CD34, again? The point was put to you in
8 a variety of ways: opportunities, horizons, etc. Just
9 turn, please, to paragraph 53 of CD34. You are there
10 setting out chunks of Government policy, page 29. The
11 preamble to the first quote, the Government says that!

12 "A balanced and measured approach to the future of
13 air transport is needed which ..."

14 The second bullet point:

15 "Reflects people's desire to travel further and more
16 often by air and to take advantage of the affordability
17 of air travel and the opportunities this brings."

18 That was the second bullet point. There it is in
19 the committee report.

20 In your view is there more to the social point than
21 this?

22 A. On my reading of the White Paper I think that is the key
23 point the Government is making in respect of the social
24 benefits.

25 Q. Then CD212, the next point.

1 MR PHILLIMORE: Sorry, Mr Hill. CD212, which one is that?

2 MR HILL: I think it is the CAA document. I have

3 temporarily mislaid my copy. It is in the folder, that

4 is why. For those who do not have the full document,

5 that's the CAA Passenger Survey Report 2005. We do not

6 have pagination on our versions; only Mr Humphries has

7 that luxury. It is table 5.13 we looked at. Some time

8 was spent examining the absolute numbers and percentages

9 of business passengers as at 2005, and I think we had

10 the figure of 19.1% put. Do you remember those

11 questions, Mr Harborough?

12 A. I do, yes.

13 Q. Those questions were all asked about the 2005 status quo

14 position, as it were. What is added to that picture

15 with the extra 10 million passengers per annum that BAA

16 are seeking planning permission for now?

17 A. The picture is not significantly changed in terms of

18 proportion, although I do acknowledge that the type

19 might change.

20 Q. Thank you. You can put that away.

21 We then went back to the economic and social

22 benefits. You made the point in an answer that there

23 were also, as it were, environmental issues that could

24 lead to social benefits. We looked at the RES in CD119.

25 Do you still have that to hand from yesterday afternoon?

1 This is the one that has a front sheet "A Shared
2 Vision".

3 You were asked about page 63 of this document and
4 goal 6. Could I just ask you -- we did not look
5 elsewhere in this document -- to assist us with one
6 other matter arising from this document? That is
7 page 53 under goal 4. Goal 4, you can see the context
8 on page 48, just before the front sheet, as it were, of
9 this section of the document, page 48, not numbered but
10 before page 49:

11 "High quality places to live, work and visit."

12 Do you have that?

13 A. I do.

14 Q. Then page 53 is priority 5: developing culture, heritage
15 and leisure assets for residents and visitors. One sees
16 then set out beneath priority 5:

17 The east of England contains natural, archeological
18 and built heritages of international importance. The
19 unique fabric and character of the region needs to be
20 safeguarded. Its distinct characteristics should be
21 reflected in new developments. The historical
22 environment is a particular asset and contributes
23 strongly to the region's image. Historic settlements
24 and landscapes, including market towns. Coastal resorts
25 and country estates all contribute to making this

1 a distinctive and attractive region.

2 Developing the region. It certainly needs to be
3 seen as an attractive place to live and to visit and is
4 important for the quality of life of the region's
5 residents, who provide a focus for community pride and
6 activity. It also provides a significant contribution
7 to improving the tourism offer. Tourism is a growing
8 sector of our economy. To develop it further, it is
9 essential that culture, heritage and leisure facilities
10 are supported and strengthened. The protection of the
11 existing and creation of a new and accessible green
12 infrastructure is integral to the region's tourism
13 industry, sustainable management of tourism, etc.

14 Then "Actions" beneath that. One can see the four
15 points set out: protect, conserve, enhance key cultural
16 heritage and leisure assets.

17 I will not read the others out. Those who have them
18 in front of them can read them.

19 What importance, Mr Harborough, does UDC attach to
20 these matters, the regional economic strategy?

21 A. Of course, the regional economic strategies is
22 a multi-dimensional document. It has a number of
23 priorities and, of course, there will be tensions
24 between those priorities. The Council attaches
25 significant weight to this particular priority, regional

1 economic strategy, in its approach, because it does see
2 the quality of life of the district as being
3 a significant economic asset.

4 Q. Thank you very much. We can put that away.

5 Then the trade deficit, the tourism issues, shortly.
6 You spent quite a bit of time on this, points being put
7 to you about people who don't fly might buy a Japanese
8 DVD. Remember those points that were made as we got to
9 the end of the afternoon?

10 A. I do, yes.

11 Q. CD34. Can you turn to paragraph 88, please, on page 36,
12 which is the committee report, jointly authored?

13 Page 36 of CD34, paragraph 88. If you turn to the
14 middle part of that paragraph, making the point there:

15 "Consumers' choice is not limited to a short break
16 in the UK or abroad. If capacity constraints mean they
17 cannot travel through Stansted when convenient, they may
18 decide to spend their available disposal income on some
19 different goods, which may well be imported."

20 A. Yes.

21 Q. Was it a point you had considered in advance of it being
22 put to you in cross-examination?

23 A. Yes, indeed.

24 Q. Just so we are clear about the significance of this
25 point, Mr Harborough, were the Council officers

1 recommending refusal to the members on the basis that
2 the trade deficit would be worsened? Is that a reason
3 for refusal?

4 A. No, that wasn't the Council's case, no.

5 Q. So why did you examine the nature and scale of this
6 issue in your report?

7 A. Because it was something that had been raised and needed
8 to be considered and weighed in the overall balance.

9 Q. Just remind us again. Where is the material to be found
10 that formed the basis for this analysis?

11 A. It is in the environmental statement.

12 Q. Thank you. Turning on, the issue of jobs and the issue
13 of the labour market, labour supply being tight now and
14 there may be a surplus or it may be in balance by 2014.
15 Do you remember those points?

16 A. I do.

17 Q. Again, just so we are clear, as you understand the
18 position from BAA, is planning permission being sought
19 now for immediate implementation or is it intended to
20 defer it until 2014 or some other date?

21 A. No. As I understand the application, they urgently need
22 consent in order to cater for the demand.

23 Q. We have looked at the figures for jobs, about 2,500
24 direct, 3,300 direct and indirect. How significant are
25 those numbers in the context of the study area?

1 A. Well, they are obviously a contribution to the targets
2 of the study area, but only a contribution and
3 a minority contribution.

4 Q. Then it was drawn to your attention that Uttlesford
5 District Council was an exporter, it was put to you it
6 was a net exporter of jobs, but you said no, in fact,
7 they were broadly in balance. In your view, how many G1
8 jobs are likely to be taken by those now commuting to
9 London or Cambridge?

10 A. It's somewhat unlikely that people will decide to switch
11 careers in that way.

12 Q. You dealt with Harlow. Again on the question of jobs --
13 very near the end now -- the question of Stansted
14 providing an important addition to the range of jobs.
15 To what extent does Stansted already provide
16 a contribution to the range of jobs available in
17 Uttlesford?

18 A. Well, clearly there are a significant number of jobs
19 available at the airport and to that extent it provides
20 job opportunities for local people.

21 Q. Will it continue to provide that range at 25 MPPA?

22 A. Well, yes, because as far as I am aware the total direct
23 employment is not expected to decrease.

24 Q. Thank you. Then there was a list of various activities
25 that BAA engaged in which related to employment and they

1 were put to you on the basis that they were all efforts
2 to try to boost the local economy. I am not going to go
3 through that list, but do you remember that point being
4 made?

5 A. I do remember the list, yes.

6 Q. Efforts to try to boost the local economy. Just very
7 briefly, how healthy is the local economy,
8 Mr Harborough?

9 A. Within Uttlesford it is healthy. I think the employment
10 and business initiatives are targeted at a wider area.
11 In relation to employment BAA's core area and in respect
12 of businesses there is a local focus, but it is far
13 wider than Uttlesford.

14 Q. Do you understand that those initiatives will continue
15 at the 25 MPPA scenario?

16 A. That is my understanding, yes.

17 Q. Thank you very much.

18 Last point. You were taken to a reference in the
19 September report which you described as a position
20 statement prior to recommendation. A series of matters
21 were put to you, right at the very end of
22 cross-examination, which it was suggested related solely
23 or largely to G2. Do you remember those points in
24 connection with costs and other matters?

25 A. Yes, I do.

1 Q. Can you just look back at the committee report actually
2 containing the recommendations? Paragraph 2.13,
3 page 61.

4 MR HUMPHRIES: Is this CD27.

5 MR HILL: I am sorry. This is the committee report that
6 contain the recommendations. That is CD34. This is on
7 the residential and urban areas affected by the
8 proposals. We have looked at this before, 213, the
9 issues here. The networks underpinning small rural
10 communities breaking down because of economic pressures.
11 The evidence of SOC, local members, complaints of the
12 Planning Enforcement Service.

13 To what extent are those issues a product solely of
14 the G2 proposals?

15 A. Well, they are not solely the G2 proposals.

16 MR HILL: Thank you very much indeed, Mr Harborough.

17 Sir, I think I am broadly on my upper band estimate.

18 MR PHILLIMORE: Thank you, Mr Hill.

19 Questions from MR BOYLAND

20 MR BOYLAND: Just a few questions, Mr Harborough. First of
21 all on the structure plan and local plan policy. You
22 said they are safe until September. There is
23 a procedure whereby the Secretary of State can ask to
24 extend that beyond that date. Has that procedure been
25 followed or is it intended to follow it?

1 A. It is in train at the moment, sir.

2 Q. Will that apply to all policies or selected ones?

3 A. No, it is a selective process based upon guidance from
4 DCLG Bath governed officers to what would be
5 appropriate.

6 Q. Presumably a decision is expected to be taken before the
7 expiry date of the policies. Is it 27th September,
8 28th September?

9 A. In relation to the structure plan, yes, sir.

10 MR HILL: Sir, can I just intervene? I hate to intervene
11 and disrupt your train of thought, but I think it is
12 just a factual point that might be helpful. You asked
13 there about the structure plan and the local plan?

14 MR BOYLAND: Yes, I did.

15 MR HILL: It is my understanding there is the same date for
16 the structural plan and the local plan, but
17 Mr Harborough might be able to help you with that.

18 MR BOYLAND: I see.

19 MR HILL: In fact, the position with the local plan is you
20 have to look to your further period.

21 A. That is correct.

22 MR BOYLAND: If you can help us, that would be helpful.
23 So what is the position with the local plan?

24 A. The position with the local plan is because it was
25 adopted in 2005, its policies are safe for three years

1 from date of adoption, which takes us through to
2 January 2008.

3 Q. Ah, yes. Then presumably -- I should know and
4 I don't -- there is a similar procedure whereby that can
5 be extended.

6 A. Yes, indeed. It applies to all elements of the
7 development plan.

8 Q. It is premature Government at this stage to apply for
9 that.

10 A. Yes.

11 Q. It is being done in respect of the structure plan?

12 A. It is, yes.

13 Q. That's helpful.

14 A different point entirely. You have answered this
15 partly but I will appreciate further consideration on
16 it. The air transport progress report -- CD?

17 MR HUMPHRIES: 88.

18 MR BOYLAND: CD88, thank you -- specifically says that it
19 has taken into account the conclusions of the Stern
20 review and the Eddington report.

21 A. It does.

22 Q. In the Council's view, so far as you can speak to that,
23 does that in effect close the book with regard to
24 consideration of the effects of growth of the airport on
25 global climate change or is that still open for

1 consideration in the Council's view?

2 A. In the context of determining this particular proposal
3 and future planning applications, the Council's view is
4 that that is a matter for national policy, and national
5 policy now seems to be settled with the exception of the
6 introduction of emissions cost assessment in respect of
7 taking into account the effects of Stern and Eddington.

8 Q. Thank you.

9 Finally, a completely different point. I think this
10 is something that has not been touched on. As
11 I understand it -- forgive me, correct me if I am
12 wrong -- the definition of ATMs, air transport
13 movements, includes flights which are carrying
14 passengers, that is PATMs --

15 A. Yes.

16 Q. -- and those carrying cargo, CATMs.

17 A. Yes.

18 Q. But it does not include other flights such as
19 positioning flights. Is that correct?

20 A. Yes. There is a detailed definition, which I am sure we
21 can provide the Inquiry with, but there are some flights
22 which are excepted from the definition of "air transport
23 movements", yes.

24 Q. Are you aware that the definition that is applied at
25 Stansted is a standard one, in other words, one which is

1 applied at other airports, or is it particular to
2 Stansted?

3 A. No, it is a standard definition of air transport
4 movements.

5 Q. Okay.

6 MR HUMPHRIES: Sir, can I give you some help on that? If
7 you look at CD207, which is UK airport statistics for
8 2006 just as an example one, and you look, for example,
9 at table 3.1, you get a list, sir, of air transport
10 movements for various airports, divided into commercial
11 movements and non-commercial movements. You will see
12 that non-commercial movements includes tests and
13 training, other flights by transport operators, aero
14 club, private, official, military and business aviation,
15 which are the sort of, you know --

16 MR BOYLAND: Executive jets.

17 MR HUMPHRIES: Executive jet type thing. Those are the
18 things which I understand are normally classified as non
19 air transport movements.

20 MR BOYLAND: That's what I understood. I wanted to be sure
21 I got it right. That is a preamble really.

22 It may be this information is available but clearly
23 we have not had the opportunity to read every document.
24 Are there any statistics for the numbers of those at
25 Stansted? It may well be in the same source.

1 MR HUMPHRIES: Yes.

2 A. Yes, there are.

3 MR BOYLAND: Same thing.

4 MR HUMPHRIES: In each of these reports, and you have them
5 for several years and the numbers are around CD202, you
6 have that data.

7 MR BOYLAND: Okay. Thank you.

8 As far as I know, the Council has not expressed any
9 concern about non-ATM flights. Are there any issues
10 arising from that that you wish to draw our attention
11 to?

12 A. No. The Council's principal focus is on commercial air
13 transport movements.

14 MR BOYLAND: Thank you very much.

15 Questions from MR PHILLIMORE

16 MR PHILLIMORE: Mr Harborough, just a point of clarification
17 on your original proof. In paragraph 5.1, the first
18 part of that paragraph, you say:

19 "Economic benefits have not materialised."

20 You pick out business travel, cargo tonnage and
21 expected jobs. Then in the second part of the
22 paragraph you refer to a number of works of a physical
23 nature. Paragraph 5.1.

24 A. Yes.

25 Q. You set out in the following paragraph a point relating

1 to planning obligations being triggered by a number of
2 those works. That's a concern of yours. Do you have
3 any other concern relating to those physical works, the
4 fact they have not been commenced according to the
5 programme that was anticipated?

6 A. No. They were only mentioned to make the point that the
7 development as envisaged in 2001, as applied for, hasn't
8 materialised.

9 Q. Paragraph 5.5, in the middle of that paragraph you say:

10 "Whilst the effects [isn't this the effects of the
11 permissions being granted] may not be as great as those
12 taken into account by the Council granting permission,
13 they still have a marked adverse effect."

14 When you say "may not be as great", is that
15 a qualification in terms of what the impact has been in
16 relation to what was originally anticipated?

17 A. I see your point. They are not as great.

18 Q. Just a final question relating to paragraph 11.17, where
19 you deal with the various job figures in relation to
20 Harlow in particular. You say the proportions remained
21 stubbornly around the level you referred to. Do you
22 want to offer any explanation as to why that proportion
23 has not increased?

24 A. It hasn't been capable or possible to get to the bottom
25 of it. It might be to do with the nature of the public

1 transport links between Harlow and the airport. We know
2 the station at Harlow is not in the centre of the town
3 and therefore to access the rail service by public
4 transport one needs to take an internal bus journey
5 within the town. Similarly, the bus service between
6 Harlow and the airport doesn't serve all residential
7 areas of the town, only part of the town.

8 MR PHILLIMORE: Thank you very much, Mr Harborough.

9 (Witness withdrew)

10 The next stage we are coming to is the
11 evidence-in-chief for Mr Rhodes. In view in the time
12 I thought we should probably take an early lunch and
13 start that after lunch. We have got some shuffling of
14 documents to do. Just to help us in that, do you have
15 a list of documents you are going to be referring to in
16 examination-in-chief? If they are not the ones we have
17 got out at the moment, that would be helpful.

18 MR HUMPHRIES: There will be very few. I have not produced
19 a list. Maybe over lunch I will produce them. We have
20 a summary, sir. I will just invite Mr Rhodes to
21 summarise some points. I am not even going to read
22 through all the summary. It seems unnecessary.

23 MR PHILLIMORE: In terms of the time you might require for
24 evidence-in-chief?

25 MR HUMPHRIES: I think, sir, we had estimated something like

1 30 to 40 minutes. We might do better than that, by
2 which I mean lower, but I do not want to promise
3 anything.

4 MR PHILLIMORE: I think we will have to keep an open mind as
5 to whether we start cross-examination or not. We will
6 see how far we get. We will come back to that this
7 afternoon.

8 The other point is obviously for the
9 cross-examination, depending on whether we start that or
10 not, it would be helpful to have a documents list for
11 that as well.

12 MR HILL: I did pass it on to Mr Osborn.

13 MR PHILLIMORE: I think yesterday you mentioned the
14 possibility of dividing your documents list up.

15 MR HILL: Yes, I did, sir. What I did was I thought,
16 depending on the timing today, I might have about
17 an hour's cross-examination, depending on how things
18 worked out. So I just tried to identify an hour's
19 chunk, as it were, that was a sensible, coherent area to
20 explore and I have just put the documents on the list
21 that relate to that rather than trouble you with finding
22 all the documents that we will not get to until next
23 week.

24 MR PHILLIMORE: That would be very helpful. Thank you.

25 To make some progress, perhaps if we take a slightly

1 shorter lunch break. It is now 12.35. If we say 1.15
2 or 1.20, a reasonable compromise. So if we adjourn now
3 until 1.20. Thank you.

4 (12.35pm)

5 (Luncheon adjournment)

6 (1.20 pm)

7 MR PHILLIMORE: Good afternoon.

8 Mr Humphries, are you ready to call your first
9 witness?

10 MR HUMPHRIES: Yes, sir. I am going to call Mr Rhodes in
11 a moment.

12 I thought, unless you told me otherwise, that this
13 might be an opportunity to answer the question that you
14 collectively asked me yesterday. You asked me about the
15 judgment in the White Paper judicial review and just to
16 explain how the concept of certain issues being settled
17 was dealt with. If I could just take a very few minutes
18 just to outline that, would that be suitable?

19 MR BOYLAND: Yes.

20 MR HILL: I do not want to stop my learned friend in his
21 tracks. I do not intend to. I understood you had made
22 a broad invitation so far as that issue was concerned.
23 We were intending to put in a short note for you on that
24 point.

25 MR BOYLAND: Right.

1 MR STINCHCOMBE: If I might add, we intended to make legal
2 submissions in due course.

3 MR BOYLAND: Shall we defer it until another time or is it
4 crucial to your case on this point?

5 MR HUMPHRIES: No, it is not particularly crucial. What I
6 will do, because I am not going to try to make detailed
7 submissions on it, I was simply going to take you
8 through the judgment and refer to those parts which
9 touch on these things. It will only take a very
10 few minutes. Let me do it now and others can then
11 comment in the way they want.

12 MR BOYLAND: Very well.

13 MR HUMPHRIES: Sir, I think the starting point for you to
14 get a feel for this -- and I am not going to take you to
15 all the relevant paragraphs but just give you the
16 structure so that you can look at it yourselves -- if
17 you turn to paragraph 7, you will see that's the
18 section that starts with the heading "Background.
19 National Planning Policy". It quotes a number of the
20 extracts that Mr Rhodes himself has drawn your attention
21 to in his own proof of evidence on the Government's
22 intentions in modernising the planning system and
23 producing policy statements.

24 If you turn to paragraph 10, you will see there the
25 reference to the consultation document and what it said

1 about statements of national policies. You can see in
2 what is an extract paragraph, 17, so not paragraph 17 of
3 the judgment but paragraph 17 of the extract, the
4 statement that I think has been referred to on more than
5 one occasion, the last two sentences which say:

6 "National policy statements will address such issues
7 as the need for and the benefits of major projects.,
8 criteria for site selection, relationships with other
9 policies, etc."

10 Then it then goes on to say:

11 "The existence of such statements will help the
12 inspector ensure that time is not wasted at inquiry
13 going over issues which have been settled."

14 Those words "wasted" and "settled" are words that
15 have sort of resonated, if I can put it like that,
16 through the entire judgment, and the judge refers to
17 them in a number of places. So that is the reason for
18 just drawing attention to that.

19 If you turn on a few pages to paragraph 14, you will
20 see some of that resonance. The judge there has already
21 gone on through various other quotations and, as he puts
22 it, he pauses. He says:

23 "Pausing there, whilst both groups of claimants
24 disagree on the content of the policies in the White
25 Paper, they have no quarrel with the proposition that

1 national policy guidance should be issued in respect of
2 major projects such as airport developments, and that
3 such statements of policy will inform and should,
4 therefore, serve to reduce the length of planning
5 inquiries into proposals for such development. However,
6 they submit that if issues are to be regarded as settled
7 so that inquiry time is not to be wasted by going over
8 them, it is essential that the process whereby those
9 issues are settled is both fair and proportionate to the
10 level of detail that is settled by the policy."

11 Again, it goes on here to identify in some further
12 quotations the principal concern of the Essex and Herts
13 authorities which related, sir, to the words in
14 paragraph 11.40 of the White Paper, which identified not
15 just that there would be a second runway but the precise
16 location of that second runway. Much, sir, of the
17 complaint led from the fact that there had not been and
18 had not been understood to be consultation about the
19 precise location, as opposed to the principle.

20 Just on that point I say as an aside, because this
21 arose in the context of talking about benefits, of
22 course, sir, you will note and be aware that in the
23 consultation document, "The Future Development of Air
24 Transport in the United Kingdom South-East", that is
25 CD113, there was a very extensive section of text on the

1 benefits of growth in air travel, and both in the
2 questionnaire at the front of that document, which was
3 the more tick box format of questionnaire, there were
4 specific questions about benefits arising from growth in
5 air travel and also, sir, in the open questions in
6 annex A of the document, again there were questions
7 about the benefits of air travel.

8 So that was will go that was consulted on and indeed
9 a number of authorities made representations. Just to
10 put that in context.

11 Moving then on, if we get to paragraph 47, that is
12 the section that starts under the heading "The Statutory
13 Framework" and it is at the end of that section at
14 paragraph 56 that the Mike Ash quote was introduced,
15 which was dealing with that statutory framework, and his
16 point that statements of policy cannot pre-empt
17 a decision on the application for planning permission,
18 which of course is a statement of the blindingly
19 obvious.

20 Sir, the point, of course, you will understand that
21 we make is not that the decision is pre-empted, but that
22 the need and benefits, as being two of the relevant
23 things in this case, are settled. Obviously one still
24 has to consider impacts and weigh them in the balance.

25 Sir, moving on then just again to give you a feel

1 for the document, the document went on to look at
2 a number of different areas and also, of course, because
3 there were two challenges combined, it looked at
4 Heathrow. There then follows a lot of text on other
5 matters, but when we get to paragraph 142, we get to
6 Stansted. I have drawn your attention to that not
7 because there is anything particularly on that page, but
8 just to orientate you in the document. This is where
9 the Stansted text starts.

10 If you could turn on to 154, you have there the
11 paragraph that I briefly referred you to yesterday,
12 which stays that:

13 "Although they profoundly disagree with the
14 defendant on the merits of the policies in the White
15 Paper, Essex and Herts accept that following the second
16 consultation document the White Paper could lawfully
17 contain policies including ..."

18 Then the first of them:

19 "That the best use should be made of the existing
20 runway at Stansted."

21 Sir, you can see, therefore, the acceptance of the
22 lawful necessary of that policy. I do not think the
23 authorities now are suggesting otherwise.

24 If you turn over the page to 159 and 160, those
25 paragraphs will give you a flavour for what it was the

1 authorities were concerned about in this case, and the
2 nature of their challenge.

3 In broad terms you will see from 159 that, subject
4 to a particular issue about commercial viability which
5 is not material to this appeal, the principal complaint
6 was that the White Paper and certain paragraphs of the
7 White Paper were unduly prescriptive in stating not
8 merely the Government supports the development as soon
9 as possible of "a" second runway as the first new runway
10 to be built in the south-east, but supports "a wide
11 space second runway at Stansted". In other words, the
12 second runway in the location that was shown in the
13 particular White Paper. That was the concern, that that
14 was prescriptive, sir, and would preclude consideration
15 of other options.

16 Again, you will see in 160 the Claimants contend
17 that this policy is unduly prescriptive, and Mr Hill --
18 the same Mr Hill you have before you -- submitted that
19 the level of prescriptive detail was unfair and an
20 disproportionate response to the consultation process
21 which preceded it, because it, as you can see in the
22 penultimate line of that paragraph, was prescribing
23 a particular form of runway at Stansted.

24 So that was the concern of the authorities.

25 I add here, sir, and you will see, there was no

1 challenge to the policy of making best use and there was
2 no challenge to the indication of the economic benefits
3 that derived from either making best use or indeed from
4 the second runway.

5 Turn on, sir, a little bit, and again there is a lot
6 of text I am going to pass over, I hope not unfairly.

7 If you turn to paragraph 228, you sort of get to the
8 last paragraphs where the judgment actually decides on
9 these issues. There had been a lot of discussion, sir,
10 about the context and the timetabling under the new 2002
11 rules for major infrastructure inquiries, but at 228 it
12 says:

13 "I accept that under the 2002 rules objectors will
14 still be given a proper opportunity to have their say,
15 but there is a clear intention that the new procedures
16 will be used by inspectors to ensure that inquiry time
17 is not wasted by going over issues that have been
18 settled. In this context there is a risk that time
19 spent by Essex and Herts exploring the details of the
20 consultation exercise and the SERAS reports that led up
21 to the adoption of the policy in the final sentence of
22 paragraph 11.40 would be regarded as wasted and the
23 policy would be regarded as having been settled by the
24 White Paper."

25 In other words, sir, because the White Paper

1 indicated not only the principle but also the precise
2 location, that being Government policy it would have
3 been settled. So that is why the challenge was made.

4 Now, sir, the challenge, as I have said, in this
5 regard only related to the precise location of the
6 second runway. There was no challenge to making best
7 use and no challenge to the economic benefits that
8 derive from doing so.

9 Sir, it is certainly our position that therefore
10 those things are settled, because there was no
11 challenge, and, as the court says here, that Inquiry
12 time should not be wasted by going over them.

13 Paragraph 229, sir, tells us -- we begin to get to
14 the climax of the judgment on this particular point --
15 that:

16 "Since Essex and Herts accept that [subject to the
17 commercial viability point they raised] the White Paper
18 could lawfully include support for a second runway at
19 Stansted as the first new runway in the south-east, the
20 eventual decision as to the form of that new runway will
21 inevitably be the result of a balancing exercise,
22 weighing capacity gain against the environmental impact.

23 "The final sentence of paragraph 11.40 tilts the
24 balance in policy terms in favour of the former. If,
25 for the reasons set out above, the balance was not

1 tilted in a fair manner, there is no reason why in
2 making their case at a future public inquiry Essex and
3 Herts should be placed at a disadvantage by reason of
4 the fact that their alternative would frustrate national
5 policy to an extent."

6 In other words, if they wanted to say, "Look, there
7 should be a close parallel runway rather than a wide
8 space runway", they should not be excluded from doing so
9 because of the indication in the White Paper and because
10 there had not been consultation on that particular
11 runway position. That was the basis of the challenge:
12 there had not been proper consultation on it.

13 The paragraph continues:

14 "In a plan-led system that disadvantage would be
15 very real and might even tip the balance against any
16 alternative option promoted by them", ie promoted by
17 those authorities.

18 Then it goes on in paragraph 230:

19 "For these reasons I uphold the Essex and Herts
20 challenge on this ground."

21 What he went on to do, rather than striking down the
22 Air Transport White Paper, he simply in effect gave
23 an indication that reliance should not be placed on the
24 indication in paragraph 11.40 of the precise position.
25 That's the ultimate decision that was made.

1 Sir, you can see, therefore, what they have said in
2 the particular judgment.

3 I need to say that, of course, the basis for us
4 saying that these things are settled does not rely on
5 the judgment, we rely on the clear indications in the
6 White Paper, but it is clear that the judgment of
7 Mr Justice Sullivan is entirely consistent with, and
8 indeed supports, the approach which we have put forward.

9 Sir, of course there will be many other
10 paragraphs that you will want to look at and others may
11 want to draw your attention to, but I hope in answer to
12 your question that gives you a flavour of the way in
13 which the judgment is structured and how they started
14 with these concepts of time not being wasted and things
15 being settled and drew that all the way through to the
16 ultimate decision.

17 MR BOYLAND: Thank you very much. As we have heard, others
18 intend to make submissions on this in due course and you
19 may wish to respond to those. We will deal with that
20 when it comes.

21 MR HUMPHRIES: Of course.

22 Sir, having dealt with that, it was my intention
23 then to introduce Mr Rhodes, if this is an appropriate
24 time.

25 MR BOYLAND: Just before you do that, can I ask when Mr Hill

1 and Mr Stinchcombe see themselves making those
2 submissions?

3 MR HILL: Sir, I have not given any particular thought to
4 that. I know that we want to make progress on the issue
5 of the interpretation of the directive in the air
6 quality regulations in advance of making submissions.
7 It may be sensible to try to set up a timetable so that
8 we exchange submissions, for instance prior to the
9 summer recess. Perhaps we can think about that over the
10 week-end and come back to you.

11 MR BOYLAND: I see no desperate urgency to do it. It would
12 be helpful to have a timing for it. Certainly if the
13 parties can exchange submissions beforehand, that would
14 no doubt save us time when we come to discuss it.

15 MR HUMPHRIES: The only caveat, sir, I would place on that
16 at all, which sounds in general very sensible, is that I
17 think both in our opening and indeed in what I have just
18 done I have in broad terms set out what our view is,
19 that these things are settled. I still don't know
20 really what either the Authority or SSE's position is.
21 With the Authority I did not understand it to be
22 different, but maybe I am going to be surprised.
23 I thought in relation to SSE's position it might be
24 different. It would be quite useful, if they are taking
25 a different position, to know (a) that and (b) what that

1 different position is.

2 MR BOYLAND: I wonder whether the three of you can discuss
3 this outside the Inquiry just to get a preliminary idea
4 of which direction each other is going and then the meat
5 can be put on the bones subsequently.

6 MR HILL: Sir, I am certainly happy to do that. You will
7 recall I did make fairly extensive submissions in my
8 opening about the effect of the White Paper and I, of
9 course, rely upon those.

10 MR BOYLAND: Of course.

11 MR STINCHCOMBE: I can confirm we do take a fundamentally
12 different view as to this judgment and also as to the
13 remit of the White Paper. That will be covered in part
14 in cross-examination. Of course, if there is going to
15 be a separate session to deal with these submissions,
16 then we can clarify matters then, although I had
17 anticipated dealing with it in closing.

18 MR BOYLAND: Yes. Certainly if there are legal issues to be
19 taken, it might be helpful to deal with them earlier
20 rather than later.

21 MR STINCHCOMBE: I am happy to do that.

22 MR HUMPHRIES: I do not mean to extend this unnecessarily.
23 I think the problem is what we are in danger of doing is
24 frustrating the very purpose of the policy and what
25 Mr Justice Sullivan himself was concerned about, ie that

1 Inquiry time should not be wasted dealing with issues
2 that have been settled. If we are only going to know at
3 the end what people's position is and they intend to
4 deal with this through cross-examination, of course, the
5 purpose itself that the Government has gone to this
6 extraordinarily sophisticated process of producing the
7 Air Transport White Paper to avoid these issues will
8 have been largely worthless, sir. So I think we need to
9 keep it under review when cross-examination is taking
10 place.

11 MR BOYLAND: I am certainly anxious to avoid wasting time on
12 the matter, but the fundamental issue of whether we need
13 to discuss these matters obviously depends on the stance
14 that one takes on that judgment, and clearly there are
15 differing views on that. What you have just suggested
16 now is consistent with the view that you have expressed,
17 but clearly others take a different view. That then has
18 different implications, if they are right.

19 MR HUMPHRIES: Of course. That is why I am saying it would
20 seem to me to be useful to bring this to a head as soon
21 as possible. You will need to make a judgment as to
22 what you are going to allow to be considered.

23 MR BOYLAND: Without knowing the propositions that are to be
24 put forward by the Councils and by SSE, I am not in
25 a position to form a judgment on that. That is why I am

1 hoping that if the three of you can discuss this, you
2 might come to some common ground at least as to how we
3 should proceed, and that can perhaps be put to me
4 earlier rather than later.

5 MR STINCHCOMBE: Sir, I do not seek to cut across those
6 discussions at all, but it may help my learned friend to
7 know that in cross-examination, in so far as I have any
8 matters at all that would relate to this issue, they
9 would be covered principally, and mainly only, with
10 Mr Rhodes. The maximum cross-examination I envisaged,
11 including even those questions, would be something in
12 the region of six hours, and hopefully less if Mr Hill
13 has covered certain matters. In the context of
14 an Inquiry that is going to last several months, the
15 amount of delay that be occasioned by allowing those
16 questions to be asked, seeing what the answers are,
17 seeing what the re-examination is, and then dealing with
18 the point of principle in legal submission, I don't
19 think is actually going to be significant. It may be
20 easier simply to go with the flow, then hear the
21 decisions in due course and then come to your own
22 decision in your recommendation as to what weight to put
23 to those answers.

24 MR BOYLAND: That is the sort of factor I would be obliged
25 if you would take into account in your discussions.

1 Thank you.

2 MR HUMPHRIES: Sir, I am going to introduce my first
3 witness.

4 MR JOHN STUART RHODES (called)

5 Examination-in-chief by MR HUMPHRIES

6 Is your name John Stuart Rhodes?

7 A. It is, yes.

8 Q. Mr Rhodes, you set out in section 1 of your main proof
9 of evidence, BAA/1/A your qualifications and experience.
10 I am not going to take you all through that save to say
11 that you have over 25 years' experience in private
12 sector planning consultancy and have been involved,
13 I think it is fair to say, in some of the largest
14 development and in particular regeneration projects in
15 the UK in recent years. Is that fair?

16 A. It is, yes.

17 Q. Mr Rhodes, I am going to ask you to turn, please, to
18 your summary proof of evidence, BAA/1/B, and I am going
19 to take you through that in a moment. Before we do
20 that, however, there is a typing error in your proof of
21 evidence that you ought to just draw attention to on
22 page 48.

23 A. Yes. Thank you for pointing that out. I am embarrassed
24 to say on page 48 of mine.

25 MEMBER OF THE PUBLIC: We can't hear here.

1 MR BOYLAND: Is your microphone switched on?

2 A. I am embarrassed to say that in paragraph 10.1 of my
3 evidence I have referred to and set out the wrong reason
4 for refusal. I have, in fact, set out reason for
5 refusal number 2, but of course the section relates to
6 reason for refusal number 3.

7 MR HUMPHRIES: Thank you. Now let us go back to the
8 summary.

9 Section 2 deals with national airports policy.
10 Mr Rhodes, I am going to suggest that we take that as
11 read. Since you wrote the proof, however, we have had
12 the planning White Paper, which we have as CD376. Is
13 there anything you want to comment on in relation to
14 that by way of updating the Inquiry?

15 A. There is, yes, please. Inspectors, if you would be kind
16 enough to take the document, certainly if this had been
17 available at the time I had written my evidence I would
18 have referred to it.

19 MR BOYLAND: Did you say CD376?

20 MR HUMPHRIES: CD376, yes.

21 A. There are four propositions that I think are relevant to
22 the Inquiry that arise from the White Paper, the new
23 White Paper. The first is -- they all relate to the way
24 in which it treats the Air Transport White Paper, but my
25 first proposition would be that it treats the Air

1 Transport White Paper as an exemplar of the modern
2 approach of Government to policy for major
3 infrastructure projects.

4 If I might briefly take you to a few short
5 references, paragraph 1.10, this is the first place we
6 see reference to the Air Transport White Paper. It is
7 really as part of the background of explaining that the
8 Government has taken steps to improve the planning
9 system for key national infrastructure projects and
10 introduce new rules to speed up and enhance public
11 Inquiries into major infrastructure projects, and then
12 says that the 2003 Air Transport White Paper explained
13 the need to expand our airports but to do so in a way
14 that took account of environmental and other
15 considerations.

16 Then please turn to paragraph 3.1, which sets out
17 the case for having national policy statements,
18 identifies that a key problem with the current system of
19 planning major projects is that national policy is not
20 in all cases clearly set out, and that this can cause
21 significant delays at the public inquiry stage, because
22 national policy has to be clarified and the need for
23 infrastructure has to be established through the inquiry
24 process and for each individual application.

25 "For instance, the absence of a clear policy

1 framework for airport development was identified by the
2 inquiry secretary in his report on the planning inquiry
3 as one of the key factors in the very long process for
4 securing planning approval for Heathrow Terminal 5.
5 Considerable time had to be taken at the inquiry
6 debating whether there was a need for additional
7 capacity. The Government has since responded by
8 publishing the Air Transport White Paper to provide
9 a framework for airport development. This identifies
10 airport development which the Government considers to be
11 in the national interest for reference at future
12 planning inquiries but for some other public
13 infrastructure sectors national policy is still not
14 explicitly set out."

15 Two other references against this topic are 329,
16 please, which talks of the timescale generally for the
17 review of national policy statements and explains that:

18 "The relatively long-term nature of infrastructure
19 projects, the need to provide clarity and certainty for
20 participants in planning and the extent of work and
21 consultation involved in their preparation all point to
22 the need for national policy statements to cover
23 a significant time period. The Air Transport White
24 Paper published in 2003 identified needs for air
25 transport through to 2030 and the proposed waste

1 strategy will cover the period to 2020. In other areas,
2 however ..."

3 Then it goes on to say the policy is less certain.
4 So it appears to recognise that the national policy
5 statement is represented there by the Air Transport
6 White Paper and in its category by the waste strategy.

7 Then 3.36:

8 "In a similar vein there are a number of existing
9 policy statements for different infrastructure sectors
10 published or planned. They reflect the different needs
11 and circumstances of their subject and vary in their
12 scope, detail and how they were prepared. Policy
13 statements for air transport, renewable energy sources,
14 transmission of renewable energy and gas supply
15 infrastructure have been published and a new statement
16 on ports is in preparation."

17 The Air Transport White Paper is recognised as a
18 national policy statement for its particular sector.

19 The second theme I think it is fair to pick up is
20 the importance, and I can do this briefly, which the
21 planning White Paper attaches to proper planning for
22 infrastructure. There are two references here.

23 Paragraph 1.49. It is a short and perhaps obvious
24 point that:

25 "Major infrastructure decisions, which account for a

1 small proportion of all planning decisions, are already
2 taken at the national level by ministers, decisions on
3 such development which is vital to our prosperity as
4 a nation."

5 I was not going to read beyond that point, because
6 it talks about the new arrangements. You can see what
7 is said, but it identifies the vital nature of
8 infrastructure for the nation's prosperity.

9 Then in the same vein, without taking you to it,
10 a reference would be again paragraph 3.1 which, of
11 course, confirmed that the airport projects which it
12 identifies are important in the national interest.

13 The third short proposition is that the planning
14 White Paper expects national policy statements to be
15 reflected in development plan documents. There is one
16 reference, 3.20:

17 "Regional and local planning bodies and development
18 plans will also have an important part to play in
19 ensuring that suitable locations are identified to
20 enable the development of national infrastructure,
21 particularly where national policy statements are not
22 site-specific. We expect national policy statements on
23 infrastructure to be reflected in, and where appropriate
24 and provide by, relevant development plans."

25 Lastly, paragraph 1.17, which explains why we need

1 national policy statements. So this is familiar
2 territory, but it is helpful that it is set out again in
3 the White Paper.

4 "The Government identifies that we do not have
5 neither do we have clear policy frameworks for all areas
6 of nationally significant infrastructure. The result is
7 that fundamental issues such as whether there is a need
8 for additional capacity or whether technology is proven
9 and safe are addressed from scratch in each individual
10 application. This can make the process of preparing
11 applications for individual project proposals more
12 onerous and uncertain and mean that many months have to
13 be spend at the inquiries into these proposals debating
14 high level issues such as need."

15 So the purpose of the national policy statement is
16 clearly set out and endorsing the sort of principle
17 Mr Humphries has just explained to the Inquiry.

18 MR HUMPHRIES: Mr Rhodes, unless there is anything else on
19 your section 2, I am going to press on. We get next in
20 your summary to section 3, which is regional and local
21 policies. Unless you want to do otherwise, I am going
22 to suggest we take that as read.

23 A. I agree.

24 Q. That brings us on to section 4, which is need and
25 benefits. The inspectors can obviously read the text

1 there, but are there any points you either wish to
2 emphasise or otherwise draw our attention to?
3 A. Just a couple of short things. I shall not read the
4 text. It is familiar from my proof. I have
5 concentrated on trying to identify from the national
6 policy statement what the needs and benefits are that
7 are identified there and, to be clear, I do regard those
8 as being settled by the White Paper.

9 The other point that I wanted to say was that it is
10 perhaps important in the context of the debate which the
11 Inquiry has heard so far to recognise that the Air
12 Transport White Paper did not anticipate that
13 Stansted Airport would change its function significantly
14 as it expanded either to maximum use or through the
15 development of a second runway. The Air Transport White
16 Paper recognises that the growth in Stansted in recent
17 years has been primarily in the leisure sector, and it
18 specifically confirms on page 13 that the Government has
19 rejected the idea of planning a second international hub
20 to replicate the role of Heathrow. Certainly it is my
21 view that the Air Transport White Paper anticipated that
22 Stansted would continue to be primarily a leisure
23 airport. That's not to say, of course, it does not have
24 an important business function, but it was in that
25 context that the need and benefits were defined and set

1 out in the White Paper.

2 Q. Mr Rhodes, when I was very briefly going through the
3 judgment I did refer to CD113 just to touch on the
4 consultation on benefits. Is there anything in that
5 that you want to draw our attention to at this stage?

6 A. I think the principal points are the points that you
7 have made. The inspectors will have seen the document.
8 It contains economic appraisal as well as environmental
9 appraisal. It consults on the full range of benefits,
10 need and impacts. Both the open questions and the
11 questionnaire deal with economic issues as well as
12 environmental issues. Perhaps just for the record, in
13 the questionnaire, for instance question 4 -- question 5
14 is asking about a hub airport in the south-east and
15 question 10 in the questionnaire clearly invites views
16 on maximum use of the existing runway at
17 Stansted Airport.

18 Q. Let us move on from section 4 and the summary.
19 Section 5 is noise-related reasons for refusal. Can we
20 take that one as read?

21 A. I think so.

22 Q. Section 6 is quality of life. Is there anything you
23 want to say on that one?

24 A. Just briefly, if I may, I will perhaps try to explain
25 the approach which I have taken. I have tried my best

1 to understand the objection which is put against the
2 appeal proposals in terms of the impact on the quality
3 of life and on issues relating to community cohesion.

4 It was certainly my view, and it remains my view
5 having heard the evidence, that the principal
6 information on which the District Council relied came
7 from the extensive representations that were made to the
8 application, particularly the document "The Erosion Of
9 The Community" produced by SSE, and it was for that
10 reason that my evidence looked closely at that document,
11 but also at the representations, and I have read as many
12 as I can and I think I have gained a comprehensive
13 picture of the representations made. It was for that
14 reason that my evidence identified and tried to define,
15 pinpoint, what the objections were and the extent to
16 which they could be objectively analysed.

17 Mr Mitchell criticised me for identifying, if you
18 like, self-selecting six points and then showing there
19 was not an issue in relation to those six points. Those
20 six points derive directly from the principal issues
21 raised by the community. I have tried to analyse them.
22 So far as I can tell, the District Council has not tried
23 to analyse them, and I remain unclear as to what the
24 Council's case is precisely on community cohesion and
25 the impact of the G1 proposal. I have not seen evidence

1 and I do not understand -- apart from a generalised
2 concern, I don't understand certainly the detail of the
3 Council's case or the evidence on which it is based. I
4 have done my best to investigate that.

5 One of the things that I have said in my evidence,
6 and I believe it to be true, is that in a situation like
7 this, where there are understandable concerns and where
8 there is -- and I have been criticised for this phrase
9 I know, "generalised" -- concerns about generalised
10 impact, in other words, impacts which cannot be
11 precisely defined, there is clear communicated sentiment
12 that there are impacts even if the Council is not able
13 to define what they are. A sensible response to that
14 situation is the response that was agreed with the
15 District Council in 2002, and that is the establishment
16 of a community fund.

17 The important thing about the community fund is that
18 it is run by the community. The community is empowered,
19 through the trust deed, which is set out in the existing
20 section 106 agreement, to administer the fund and to
21 receive applications for community projects.

22 I, of course, recognise that the fund may not always
23 respond to precise concern that the airport is said to
24 generate, but I do not know a better way of responding
25 to that, and what is clear through the application of

1 the fund is that the community fund is bringing
2 significant benefit to the community.

3 Sir, in answer to a question that you posed to
4 Mr Mitchell, I have asked for this document, CD383, to
5 be added to the core document list. It is
6 a straightforward document but it does define the area
7 of benefit for the community trust. It sets out how
8 anybody can apply, within that area, for funds from the
9 community trust and it explains the sort of projects
10 that it is aimed at addressing.

11 MR HUMPHRIES: Sir, if I may be allowed to butt in for
12 a moment, you will notice that the copying of the plan
13 on the front is not very good. We do recognise that --

14 MR PHILLIMORE: I do not think that document has actually
15 reached us yet.

16 MR HUMPHRIES: Mr Osborn was circulating them this morning.
17 He went round the room with a great sheaf of them and
18 handed them out as people arrived.

19 A. CD383.

20 MR PHILLIMORE: We don't have that I am afraid.

21 MR HILL: CD382, of course, was the Ash statement that my
22 learned friend had not received.

23 MR HUMPHRIES: I have that as well now.

24 MR TURNER: There is a copy here. Shall I give it?

25 MR HUMPHRIES: Yes, do.

1 Sir, I am sorry you have not all got them. As
2 I say, Mr Osborn was going round the room handing them
3 out and even gave me one.

4 Sir, I have a second one, because ...

5 Sir, I was just simply noting that -- sorry.
6 I could not hear that comment.

7 MR BOYLAND: Nor could I.

8 MR HUMPHRIES: Sir, I was just noting that the copying of
9 the plan on the front when I received it was not very
10 good. It is a copy made of a coloured plan. If you
11 could bear with us for now, I will see if I can get
12 a better colour copy made.

13 MR BOYLAND: Thank you.

14 A. Just a couple of points to make about it, please. I am
15 sorry the plan is not much clearer. The irregular
16 northern boundary I believe responds to the boundary of
17 Uttlesford District. Then to the south the circular
18 boundary has been extended to the south-south-west to
19 take in Harlow. To the west it extends to Standon and
20 Puckeridge. To the east it goes just beyond Felstead
21 and Dunmow. To the north it goes just beyond
22 Saffron Walden. As a matter of fact, that is the area.

23 The first page of the document explains to anyone
24 interested how they could apply. The little box under 3
25 is perhaps interesting.

1 "The trust is not likely to make project grants of
2 more than £2,000 except in exceptional circumstances.
3 Grants will not normally be given to individuals or to
4 organisations such as schools, pre-schools or Parish
5 Councils, which receive statutory core funding for
6 revenue funding or which are retrospective."

7 Just one point I would like to explain about that is
8 that that restriction is not contained in the trust
9 deed, which is in the section 106 agreement. These are
10 rules which the independent trustees chose to set for
11 themselves. They have the discretion on how the fund
12 operates.

13 MR HUMPHRIES: Mr Rhodes, what is the approach of the Air
14 Transport White Paper to things such as this?

15 A. The Air Transport White Paper does have a reference to
16 this sort of thing on page 166, which is part of the
17 integrated policy appraisal, right toward the back of
18 the Air Transport White Paper. It asks itself the
19 question:

20 "Will the policy or project affect the number of
21 people involved in voluntary and community activities?"

22 The answer it gave itself was:

23 "Possibly at the margins. Many airports are already
24 involved in a range of voluntary and community
25 activities. A stronger airport industry could provide

1 more opportunities for airport-sponsored community
2 projects."

3 Perhaps just finally to say two things. One is, for
4 your information, this has been going since 2005. I am
5 aware that in the year 2005/2006, 55 local organisations
6 were awarded money from the fund. Of course, the fund
7 is greater than the £100 000 per annum set out in the
8 section 106 agreement, because any fines imposed on
9 airlines for not meeting the flying obligations at
10 Stansted are added to the fund.

11 One last point to make in this same context is this
12 is not the only thing that is done with the local
13 community by the airport. There are three other
14 initiatives. There is a Stansted Airport Charity which
15 is run by workers at Stansted Airport. In 2006/7 it
16 raised £52,000 and gave that money to more than
17 100 causes, most of them local causes. There is also
18 something called a Stansted Public Affairs Fund, which
19 is involved with sponsorship of local sports and
20 education events. Then corporately BAA has something
21 called the 21st Century Fund, which is a national -- I
22 don't know, possibly international -- fund and airports
23 can bid to that fund if they have specific projects in
24 mind. I do not have specific information as I sit here
25 about the state of that fund or the experience of

1 Stansted, but I can obtain that information if it is
2 thought helpful.

3 Q. Mr Rhodes, unless there is anything else on section 6 in
4 the summary "Quality of Life", I propose we move on.

5 Section 7 is air quality effects. I suggest we take
6 those as read, unless you think otherwise.

7 Section 8 is water conservation. Again I suggest we
8 take that as read.

9 Section 9 is surface access, road and rail. Again,
10 can we take that as read?

11 Section 10 is climate change. That is one that it
12 might be worth dwelling on briefly.

13 Are there any further things you wish to inform the
14 Inquiry about in relation to climate change?

15 A. I do not think I need to read this section, because
16 I think the Inquiry is already very familiar certainly
17 with the approach of the appellant in relation to
18 climate change. I did think it may be helpful for my
19 rebuttal proof to explain more about the emissions
20 trading scheme and the Government's approach to that.
21 I think the important point for me to make is that the
22 Government has deliberately set out to achieve a very
23 comprehensive approach to aviation and climate change
24 together. I imagine there will be questions about this,
25 but it is not a question of there being one Government

1 policy for aviation and a completely different and
2 inconsistent policy approach for climate change. It is
3 very clear, not only from the published policy documents
4 but from the extensive research documents that the
5 Government has also engaged in, that that is its
6 approach. It looks to a total solution to climate
7 change, which includes aviation, and directly takes
8 account of the Government's encouragement to expand the
9 aviation sector.

10 There is one document which came to my attention
11 after I had written my proof, and I hope that the
12 Inquiry does have that document. That is CD377, which
13 is the speech of the Minister Mr Douglas Alexander on
14 27th March 2007.

15 I have realised, looking at this speech, that I
16 don't actually know what IPPR stands for, which is my
17 fault. It is related to the IPCC, which is the
18 International Panel on Climate Change. There was
19 a speech given by the Minister for Transport to what
20 I imagine is a grouping within the IPCC, but I apologise
21 that I do not know. It clearly related both to
22 transport and climate change.

23 There is a short section on the second page that
24 I wanted to draw attention to headed "From science and
25 economics To action". It explains that the recent IPCC

1 report reinforced the strength of the scientific
2 consensus:

3 "The Stern review on the economics of climate change
4 published towards the last year has moved the debate on
5 from the science of climate change to the economics of
6 climate change. As you will know, the report argues
7 that to stabilise carbon levels at an appropriate level,
8 a global emission cut of at least 25% compared to now is
9 required. As a developed country we must, of course, do
10 more. Further, the economic cost of not acting, or
11 delaying action, on climate change far outweighs the
12 cost of action, providing an economic rationale for the
13 fight against climate change that is also helping win
14 the argument internationally. But candidly I fear only
15 part of the argument has been heard. Talk of
16 a planetary emergency is frequently part of today's news
17 coverage. What has been less widely discussed is
18 Stern's analysis that the right policy actions can both
19 meet the scientific challenge and the public's
20 expectation of economic growth. So while I welcome the
21 increased public concern the report has stimulated, our
22 responsibility now is to deepen the public understanding
23 of the capacity to meet the scientific challenge if the
24 right steps are taken.

25 "The challenge, if you like, is to match the

1 increased concern with increased clarity on how to act.
2 As individuals, we can and must play our part to tackle
3 climate change, but the sacrifice agenda on its own is
4 not and will not be enough. What we stop doing is one
5 part of it, but how we change what we do is the vital
6 next step.

7 "To take just one example of Nicholas Stern's
8 approach, he is clear that the way to meet this
9 challenge is not through arbitrary limits on individual
10 sectors of the economy, nor a willingness to make
11 arbitrary decisions on individual pieces of
12 infrastructure. Instead, he argues for an economy-wide
13 approach to extract the maximum amount of carbon for the
14 minimal cost through all sectors, taking their taking
15 their place within a framework delivering a reduction in
16 carbon emissions."

17 I found that a clear and helpful summary of the
18 Government's position, which I think is consistent with
19 the way that I have tried to explain it in my evidence.

20 Q. Mr Rhodes, I am not going to invite you to look at other
21 parts of the document, but is it a paper which rewards
22 reading, if I may put it like that?

23 A. Yes, it is. It is clearly a very thoughtful and clear
24 exposition of the Government's approach.

25 Q. Is there anything else on your section 10, climate

1 change, that you need to touch on?

2 A. No. Thank you.

3 Q. The next section, economic benefits, you have touched on
4 some of those already. Again, is there anything you
5 want to add on economic benefits?

6 A. I thought if I may read paragraph 11.2:

7 "The District Council does not assert that the
8 benefits of G1 are insufficient to outweigh the impacts;
9 simply that the economic benefits have not been
10 demonstrated strongly enough. This is an inappropriate
11 approach, not least because:

12 "1. There is no obligation on the
13 applicant/appellant to demonstrate the economic
14 benefits; rather, the obligation falls on the District
15 Council to assess the merits of the application, taking
16 account of national and regional policy.

17 "2. The Government has expressed the clearest view
18 about the economic benefits.

19 "3. The District Council is required to formulate
20 its own policy approach from national policy and the
21 RSS, both of which confirm the importance of the
22 benefits from increased aviation."

23 Q. After section 11 we come to section 12 on other matters
24 raised. Is that one that we can take as read?

25 A. I am happy to.

1 Q. Then your conclusions in section 13. Again bearing in
2 mind the time, do you want to just draw attention to
3 particular points? Read parts if you want, but just
4 give the inspector your overall conclusion on these
5 matters.

6 A. I am not sure I need to draw the conclusions. Everybody
7 is aware what my conclusions are.

8 With apologies, can I go back to one point in the
9 planning White Paper instead? I certainly do not want
10 to be accused of selective reference to it. It relates
11 again to the status of the Air Transport White Paper.
12 Paragraph 338. I was conscious, as I was closing it
13 before, this is a paragraph that has been referred to in
14 opening by I think both the District Council and SSE.
15 It reads:

16 "Where relevant policy statements already exist, we
17 propose that these should acquire the status of national
18 policy statements for the purposes of decision-making by
19 the commission."

20 Perhaps I might comment as I go through. Where
21 a national policy statement already exists, they would
22 acquire the relevant status for the purposes of
23 a decision by the commission. We, of course, are not
24 seeking a decision by the commission. So in so far as
25 there is any test in paragraph 338, it is not a test

1 which the Air Transport White Paper needs to meet.

2 Nevertheless, to read on:

3 "However, in order for this to be possible, they
4 will need to meet the core elements and standards for
5 national policy statements with regard to both content
6 and consultation. This may mean some modification to
7 existing statements."

8 Just picking up those two sentences, the core
9 elements and standards for national policy statements
10 with regard to both content and consultation. Sirs, for
11 your references, the content of national policy
12 statements that is expected of them is on page 44 of the
13 document, and the consultation requirements are on
14 page 51. Without taking too long over it, it is my
15 contention that the Air Transport White Paper would meet
16 those tests if it was necessary for it to do so.

17 It then goes on to explain:

18 "The departments are considering this in their
19 proposal for consultation. Further details on the
20 Government's proposals for the form and timing of
21 national policy statements will be set out after this
22 consultation."

23 I think the rest of the paragraph is perhaps less
24 important. What may be helpful to look at is
25 paragraph 331:

1 "National policy statements would need to be
2 regularly reviewed or updated to ensure that they take
3 account of significant developments. The Air Transport
4 White Paper, for example, had a commitment to monitor
5 and evaluate the effectiveness and impact of the
6 policies with a progress report after three years and
7 the Government is now committed to a full review in
8 a further three to five years."

9 I draw from that the conclusion that the Government
10 is saying to us all that the Air Transport White Paper
11 remains up-to-date, it carries the full weight of
12 a national policy statement and the Government can
13 realistically expect decisions to be made consistent
14 with its policies until it is reviewed in three to
15 five years' time. It provides a very important
16 framework for this Inquiry.

17 Q. Mr Rhodes, unless there are any other matters you want
18 to deal with in-chief, those are all my questions.

19 A. Thank you.

20 MR HUMPHRIES: Thank you, sir.

21 MR PHILLIMORE: Thank you, Mr Humphries.

22 Mr Hill, I think you were looking for hour-long
23 chunks before. Now you have a half hour one.

24 MR HILL: I think half an hour on a Friday afternoon, it
25 seems to me it is unlikely to be worthwhile starting,

1 but I am in your hands.

2 MR PHILLIMORE: That is our feeling as well. I think we
3 will now adjourn until next Tuesday at 10 o'clock. The
4 Inquiry is now adjourned.

5 (Inquiry adjourned until 10 o'clock on
6 Tuesday, 12th June 2007)

7

8 --ooOoo--

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

I N D E X

1		
2	MR ROGER HARBOROUGH (continued)	2
3	Re-examination by MR HILL	3
	Questions from MR BOYLAND	60
4	Questions from MR PHILLIMORE	65
5	MR JOHN STUART RHODES (called)	84
6	Examination-in-chief by MR HUMPHRIES	84
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

