

Stansted G2 Inquiry: Programming Meeting, 19 January 2009

SSE Response to Inquiry Manager's questions (email dated 7 January 2009)

1. *In preparing for the meeting the Inspector would be grateful if the main participants at the inquiry would consider the enclosed list of topics (Agenda Item 2) and advise me in advance of the meeting if:*
 - *there are other topics that you consider should be added to the list; and/or*
 - *if there are any material errors or omissions in the lists of witnesses expected to give evidence on each topic.*

SSE Response: (following the sequence of the topics listed):

- (i) **The Proposals** – Dealing with Forecasting at the start of the Inquiry would normally be a logical approach but would in our view be problematic in this case because much vital information/clarification is still awaited from BAA and the decision by the Department for Transport ('DfT') on the future development of Heathrow, originally due to be announced last summer has only just been announced today (15 January 2009). This has also resulted in a delay in the publication of the DfT's revised air traffic forecasts (again only just published today) leaving insufficient time before the start of the Inquiry to consider the implications of the Heathrow decision and the revised DfT forecasts for the G2 project, noting that we need to incorporate the latest information into our own modelling before we can properly understand the implications. **However we can immediately see that the DfT's new central case demand forecast for Stansted in 2030 is 55 million passengers compared to 70 million passengers in its previous (2007) forecasts. Clearly this is of major significance.** See also our response below to your Q2 on the proposed sequence for dealing with topics.
- (ii) **Planning Policy** – In our view the topic heading here should be 'Policy Context' rather than 'Planning Policy' to make it clearer that the full range of central and local government policies fall to be considered insofar as these have a bearing upon the proposed development.
- (iii) **Economics** – The economic assessment of the proposed development is critically dependent upon the forecasts. Hence the points made in relation to Forecasting at (i) above apply equally to Economics. The Economic Impact Report ('EIR') for the proposed

development has only been available since November and much important information/ clarification is still awaited from BAA.

- (iv) **Air Safety and Airspace** – The continuing uncertainty pending the NATS decision on its airspace change proposals for the TCN area should be noted (and added to the list of important pending announcements). Note also that BAA has still not provided a 2015 base case for Third Party Risk.
- (v) **Noise** – As (iv) above and note also that we still do not have reliable base case data from BAA (a point acknowledged by BAA) and no date has yet been confirmed for the provision of this information, making progress on comparisons for Proofs of Evidence impossible.
- (vi) **Air Quality** – SSE's main witness will be Dr Patricia Elliot (as shown in our Statement of Case). She will be assisted by Dr Kate Ward in the preparation of her evidence and possibly also in its presentation. The evidence will be presented jointly with Friends of the Earth.
- (vii) **Surface Access** – We comment on the proposed sequence for dealing with topics below in response to your Q2. With regard to the scope of this topic, BAA's Statement of Case indicates that it intends to present evidence on its G2 surface access strategy and so also does SSE. A sub-heading should be added to this effect.

In addition, we suggest that the Inquiry should have the benefit of evidence from Network Rail and National Express (the franchisee rail service operator) as the organisations actually responsible for providing the service and delivering any improvements. We would ask the Inspector to consider inviting both these organisations to appear in the interests of hearing oral evidence at first hand and having an opportunity to clarify matters directly with them rather than relying on hearsay evidence.
- (viii) **Local Roads and Rights of Way** – We note that it is now intended to make this a topic in its own right. We are currently considering how best to structure and present our evidence in this area.
- (ix) **Nature Conservation** – No further comment (i.e. as per our Statement of Case).
- (x) **Landscape and Visual Impacts** – To clarify the information provided in our Statement of Case, Peter Sanders will be SSE's main witness on this topic and he will be supported by John Drake of CPRE on some aspects of it.

- (xi) **Historic Environment** – The G2 Environmental Statement submitted by BAA uses the term ‘Cultural Heritage’ for this topic and it may be better to use that term in order to avoid any potential confusion. Similarly we would suggest the same sub-division as used by BAA, namely: ‘Archaeological Remains’ (to include Scheduled Ancient Monuments), ‘Historic Landscape’ and ‘Historic Buildings’. We believe these would be appropriate headings for the sub-topics. SSE’s witnesses will be Peter Sanders on the first of these three sub-topics, Jacqueline Cooper on the second and Douglas Kent on the third.
- (xii) **Agriculture** – No further comment (i.e. as per our Statement of Case).
- (xiii) **Water Supply and Drainage** – We consider that this does not need to be a separate topic and could be included under the topic heading of Sustainability alongside Energy and Waste. As advised in our Statement of Case, we intend to submit a combined Proof of Evidence (jointly with Friends of the Earth) for these three sustainability topics and our evidence will be presented by Dr Patricia Elliot.
- (xiv) **Energy and Waste** – as per (xiii) above.
- (xv) **Ground Contamination** – SSE does not intend to submit evidence on this topic.
- (xvi) **Health and Community** – We suggest that appropriate sub-topic headings would be ‘Health Impacts’, ‘Cultural Impacts’, ‘Leisure Impacts’, ‘Social Impacts’, ‘Tranquillity Impacts’ and ‘Quality of Life Impacts’. To clarify the information contained in our Statement of Case (now that the impacts on local roads and PROW have been removed from this topic area) Maggie Sutton will be SSE’s main witness on this topic with support from John Drake of CPRE on Tranquillity and Quality of Life Impacts.
- (xvii) **Sustainability** – As advised in our Statement of Case, we intend to structure our evidence to deal with Energy, Waste and Water in a combined Proof of Evidence under this topic heading and also deal (in a separate Proof of Evidence) with the BAA Sustainability Report for the G2 project.

We do not consider that it would be appropriate to consider **Climate Change** as a sub-topic under this heading because it is such an important topic in its own right and the policy context is far wider than sustainability, for example it includes health and economic aspects. BAA acknowledges that the scale of additional carbon dioxide (‘CO₂’) and other greenhouse gas (‘GHG’) emissions arising from the proposed development is very

considerable. Indeed the increase in CO₂ and other GHG emissions is one of the most obvious and damaging environmental and economic impacts of the proposed development. The Secretary of State has a duty to take account of all of the environmental and economic effects of the proposed development and we believe that it would be inappropriate to relegate such an important aspect of the proper decision-making context to a sub-heading under 'Sustainability'.

- (xviii) **CPOs & CROs** – BAA has refused to provide us with a breakdown of the agricultural land that would be taken for activities that are ancillary to the 'core' operation of an airport. Nevertheless, as advised in our Statement of Case, we intend to make submissions in relation to BAA's proposed use of CP, arguing that the scope of BAA's CP powers does not extend to land which is required for ancillary activities such as car parking and hotel sites.
- (xix) **Conditions and Obligations** – we are content with the proposal to deal with these matters in 'round-table' format.

Topics omitted from the list:

- (xx) **Opening Submissions** – Specific provision should be made for opening submissions – whether legal or otherwise. In SSE's case we envisage presenting arguments on the prematurity of the Inquiry and the G2 planning application. Logically this should be at the very start of the Inquiry. If the Inspector agrees with our argument on this we can dispense with the rest of the Inquiry, thereby saving a great deal of time and money.
- (xxi) **Climate Change** – Please refer to our comments under **Sustainability** at (xvii) above.
- (xxii) **Employment and housing** – This has been omitted from the list of topics. BAA deals with employment and housing impacts in ES7 and, as advised in our Statement of Case, 'SSE intends to submit extensive employment evidence to the Inquiry which will deal, inter alia, with:
- *employment displacement impacts;*
 - *skills mismatch between local supply and demand;*
 - *local over-dependency on airport jobs;*
 - *impact on local housing market;*
 - *impact on commuting;*
 - *impact on local labour market;*

- *comparison of local/regional vs national impacts;*
- *comparison of full use of the existing runway vs G2.'*

(xxiii) **Closing Submissions** – included here for the sake of completeness although we note that this is dealt with in one of your later questions.

Inspector's Notes:

1. **Historical Background** – The Inspector is suggesting that, insofar as SSE's evidence on the Historical Background is not agreed upon in advance in a statement of common ground, it should be presented under the topic heading of 'The Proposals'. Some of our evidence in this area may not be contested but we cannot, for example, leave BAA's account and interpretation of the Eyre Report as given in its Environmental Statement to go unchallenged. We are content to present our evidence on the Historical Background within the opening topic area of 'The Proposals'. We also consider it important that members of the public attending the Inquiry are able to hear a brief account of the historical background which is an important part of the context for the Inquiry.
2. **Forecasting** – The proposed separation of 'high-level' forecasting matters relating to 'The Proposals' from forecasting matters which affect surface access, air quality, noise etc would also be SSE's preference but there are two practical difficulties with this:
 - (i) SSE has been asking for the relevant BAA forecasting data to be discussed at the appropriate technical TWGs (surface access, air quality, noise etc) but BAA has so far refused to allow this. If we have had no prior satisfactory explanation of the basis for the BAA input data for the surface access, air quality, noise etc modelling, we will wish to cross-examine BAA's technical witnesses extensively under each relevant topic; and
 - (ii) our understanding is that the consultants who will be presenting evidence on behalf of BAA in relation to surface access, air quality, noise etc are not familiar with the basis for BAA's forecasts having simply taken the BAA forecasting data 'as read' and used it as the key inputs for their own modelling work and analysis. It is not clear therefore how they would be able to deal with cross-examination in this area.

For the avoidance of doubt we confirm that we intend to present alternative 'high level' forecasts to the Inquiry based on the Government's preferred approach of making best use of the existing runway before building a second runway.

3. **Economics** – We are content with the proposal to deal with all matters arising from BAA’s Economic Impact Report under this topic heading. We would also refer to paras 5.24.4 and 5.24.5 of our Statement of Case where we referred to DfT sensitivity tests which we requested and are currently awaiting and where we also advised that our economic evidence will include a comparison between the G2 project and the Government’s preferred approach of making best use of the existing runway before building a second runway.

- 4/5. **Noise/Surface Access** – We would like to understand more clearly what the Inspector has in mind in terms of dealing separately with ‘*The effects of traffic using the proposed M1 [sic] and A120 junctions*’, the effects of increased road traffic more generally, and not only in respect of noise impacts but also in respect of air quality, landscape, biodiversity etc impacts. We are concerned that such an approach may prevent the cumulative and aggregate effects of the proposed development being examined in a holistic way. The suggested approach may also create the need for our ‘specialist’ witnesses to give separate evidence during the surface access hearings.

6. **Noted.**

7. **Noted.**

8. **Noted.** Please see our comments under ‘Sustainability’. We reserve our position to make further comment pending the outcome of the G1 Appeal.

9. **Noted.**

2. ***Consider the order in which the topics should be heard (Agenda Item 3) and in particular whether an order different from that on the Inspector’s preliminary schedule of topics would be beneficial.***

SSE Response:

In our submission of 7 November 2008 prior to the Pre-Inquiry Meeting (‘PIM’) (paras 6.5 and 6.15), orally in the course of the PIM and in our letter of 21 November following the PIM (para 2) we highlighted our particular concerns about the prospect of having to deal with Forecasting, Economics and Surface Access at an early stage in the Inquiry because we

(and the other main parties) are still waiting for vital aspects of clarification/new information in each of these three areas. We proposed that these three topics should be dealt with at a later stage of the Inquiry.

However, we note that your provisional running order proposes that Forecasting should be dealt with as the first of the (19) topics for the Inquiry, Economics third and Surface Access seventh. While this would normally be a logical approach, for reasons already explained we again ask that these three topics be scheduled later in the running order and reiterate our suggestion that land-based topics (currently scheduled for the second half of the Inquiry) could be dealt with during the early stages of the Inquiry. Having discussed this with BAA and the Councils we understand that they would also support dealing with land-based topics at an earlier stage in the Inquiry to enable those topics which are more critically dependent upon forecasts and modelling to be dealt with later.

With regard to the land-based topics, we believe it would be more logical to slightly change the order shown so as to deal with Landscape & Visual Impacts first.

3. ***Consider how much inquiry time needs to be allowed for each of the topic areas identified to cover all evidence in chief, cross-examination and re-examination - Agenda Item 4. (In this regard the Inspector urges BAA and the main parties opposing the applications to consider the matter jointly).***

SSE Response:

We have discussed this with BAA and we understand that it estimates a total of 120 sitting days for the Inquiry. The broad estimate we made based on our initial review of the BAA planning application documents and the issues to be examined was that it would take between four and five times as many sitting days to deal with the evidence at the G2 Inquiry as compared to the G1 Inquiry, which sat for 49 days in total. Recognising that a lower multiplier will apply to evidence from members of the public and 'minor' parties and to the time required for conditions and closing submissions, we have refined our original estimate to about 200 sitting days in total.

It is too early to provide a reliable estimate of the time required for each individual topic. We are still some way from finalising our own Proofs of Evidence and of course we have not yet seen BAA's Proofs of Evidence. In addition we are still waiting for important information from BAA, the DfT, the CAA and others. We do not yet know how much of this information will be

available before the Inquiry begins or which issues might be 'resolved' with BAA beforehand.

We do however recognise the Inspector's need to consider the timetable for the Inquiry and, with this in mind, we offer a very rough topic-based estimate as set out in the following table:

Ref No	Topic	Estimated sitting days (NB: very rough estimate)
(i)	The Proposals	25
(ii)	Planning Policy	10
(iii)	Economics	15
(iv)	Air Safety and Airspace	4
(v)	Noise	10
(vi)	Air Quality	5
(vii)	Surface Access	25
(viii)	Local Roads and PROW	5
(ix)	Nature Conservation	3
(x)	Landscape and Visual	6
(xi)	Cultural Heritage/Historic Environment	6
(xii)	Agriculture	3
(xiii)	Water Supply and Drainage (included in (xvii))	0
(xiv)	Energy and Waste (included in (xvii))	0
(xv)	Ground Contamination	0
(xvi)	Health and Community	15
(xvii)	Sustainability	5
(xviii)	CPOs and CROs	10
(xix)	Conditions and Obligations	5
(xx)	Opening Submissions	2
(xxi)	Climate Change	5
(xxii)	Employment	5
(xxiii)	Closing submissions	8
Other	Representations from members of the public and 'minor' parties (say)	25
	Total	197

4. ***Consider (again jointly if possible) whether it there is scope for any of the inquiry sessions to be held concurrently - Agenda Item 5 (e.g. sessions considering Surface Access, Historic Environment and CPOs).***

SSE Response:

We remain firmly of the view that concurrent sessions would create enormous unfairness and lead to a loss of transparency and cohesion. For a complex Inquiry such as the one before us, with so many inter-dependencies between the topics, we do not believe there to be any scope to hold concurrent sessions without undermining the fairness of the Inquiry. SSE would be particularly prejudiced if concurrent sessions were to be held because we intend to present evidence on almost every topic and do not have the resources to deal with what would, in effect, be two Inquiries taking place in parallel. Concurrent sessions would prevent us from fully participating in the Inquiry process and would almost certainly result in our missing relevant evidence. Some of our members, including some of our witnesses, have indicated a wish to attend every session of the Inquiry, and this would not be possible if concurrent sessions were to be held.

5. ***Consider (again jointly if possible) what risk factors the Inspector and the Secretary of State should take into account in drawing up the inquiry programme and timetable – Agenda Item 6. (e.g. the potential need to present evidence on alternative positions if some of the pending announcements are not made in advance of the inquiry start date (see note attached)).***

SSE Response:

In our Outline Statement of Case (13 October 2008) we described the significant regulatory, economic and political uncertainties associated with the G2 project. We explained these uncertainties further in our submissions (referred to in our response to point 2 above) before, during and after the PIM and we listed these in our Statement of Case (22 December), as follows:

- (i) *the future ownership of Stansted Airport and whether any new owner would support the G2 project, noting that the Competition Commission's final decision on whether BAA must sell Stansted is due by 28 March 2009;*

- (ii) *the Government's revised forecasts for UK air travel, publication of which has been repeatedly postponed, currently expected by the end of January 2009; [Note: Revised DfT forecasts have just been published: 12.30pm, 15 January 2009.]*
- (iii) *the outdated (May 2006) air traffic forecasts that BAA has relied upon in its G2 planning applications and Environmental Statement ('ES');*
- (iv) *the outlook for future demand at Stansted pending the Secretary of State's decision on the future development of Heathrow (a decision which will also have a bearing upon Gatwick) where, again, a decision has recently been postponed until January 2009; [Note: Decision just announced: 12.30pm, 15 January 2009.]*
- (v) *the Government's response to the Competition Commission's recommendation that air transport policy be revised 'to give due consideration to the ambitions of the new owner of Gatwick, including the possibility of a second runway at Gatwick after 2019' (regardless of the Government's decision on a third Heathrow runway);*
- (vi) *the fundability of the G2 project noting that:*
 - (a) *the current view of the CAA, the economic regulator for Stansted, in line with the recommendations of the Competition Commission, is that no financial provision for the development of a second Stansted runway is needed during Q5 (April 2009 to March 2014). A final decision will be made by the CAA in March 2009; and*
 - (b) *BAA's stated position is that the development of a second runway at Stansted is subject to a regulatory settlement which provides satisfactory remuneration for the project;*
- (vii) *the delay in a recommendation by NATS, and in a subsequent decision by the Secretary of State, on the proposed major changes to Stansted flight paths such that aircraft noise impacts upon communities across a wide area of Hertfordshire, Essex, Cambridgeshire and Suffolk cannot, as matters stand, be assessed, inhibiting representations to the Inquiry from swathes of the community which will be most affected since they do not yet know where they would stand;*
- (viii) *the decisions awaited from the DfT regarding development plans for the West Anglia Main Line ('WAML') and for the M11.*

Other important matters pending:

Our appeal against the G1 decision should be added to the above list of risks and uncertainties associated with the G2 Inquiry. This is to be heard by the High Court during week commencing 23 February with a decision expected in early March. There is no guarantee however that the decision will be announced before 10 March – the date on which submission of Proofs of Evidence is required for the G2 Inquiry.

If our Appeal is successful, we assume that the G2 planning application would become null and void and the Inquiry would be cancelled. If our Appeal is unsuccessful, the shortage (or total absence) of time available before G2 Proofs of Evidence must be submitted will put SSE in an extremely difficult and, we believe, unfair position particularly in relation to our Proofs of Evidence on Economics, Climate Change and Noise Impacts, which are at the heart of our Appeal. We would need to study carefully the Judge's detailed reasons so that we had a clear understanding of the legal interpretation of the validity of our various arguments on Economics, Climate Change and Noise Impacts and on the wider issue of the balance between Government policy and the assessment of environmental and economic impacts.

6. ***Consider what time allowance needs to be made in the overall programme for the preparation and presentation of closing submissions (and any other matters not covered by the schedule of topics).***

SSE Response:

The table provided under our response to Q3 above includes our rough estimate of eight days for presentation of closing submissions by all of the main parties. With regard to preparation time, we can only be guided by the G1 Inquiry where the preparation of our closing submissions took us about two weeks despite having worked on these during the August recess, by which time all of the topics except surface access had been dealt with at the Inquiry. We were given one day for presentation. The scope and scale of the G2 Inquiry are of course both very much larger than in the case of the G1 Inquiry and so we would expect preparation of our closing submissions to take considerably more than two weeks.

If, as the Inspector has proposed, interim closing submissions are to be made at the end of each topic, this should reduce preparation time for closing submissions but sufficient time will

need to be allowed between topics to allow these to be prepared without detriment to preparation for the next topic.

7. Advise me if there are specific matters which they would wish to raise under Agenda Item 7.

SSE Response:

The main matter we wish to raise under 'Any Other Business' relates to the proposed start date for the Inquiry. We consider that there should be an opportunity for all main parties to express a view as to whether, in the light of:

- (i) the imminent G1 Appeal and the difficulties this creates for SSE in particular;
- (ii) the Competition Commission's reaffirmation (in its 'Final Remedies' report, 17 December 2008) that it intends to order BAA to divest Stansted Airport;
- (iii) other current uncertainties and important information that is still awaited,

the start date for the Inquiry should be postponed until a date to be determined once a new owner is in place and has had an opportunity to form a view as to whether to continue to pursue the G2 application.

We also deal with this matter in our covering letter.

Stop Stansted Expansion

15 January 2009