

LEGAL & GENERAL ASSURANCE SOCIETY LIMITED
AND
HINES UK LIMITED

PROPOSED SECOND RUNWAY AT STANSTED AIRPORT

Town and Country Planning Act 1990

Planning (Listed Buildings and Conservation Areas) Act 1999

**Town and Country Planning (Major Infrastructure Project Inquiries Procedure)
(England) Rules 2005**

**AIRPORT ACCESS FROM PROPOSED M11 MOTORWAY JUNCTION 8b
AND PROPOSED A120 TRUNK ROAD REPLACEMENT TRINITY
JUNCTION**

Highways Act 1980

**COMPULSORY PURCHASE ORDERS IN RESPECT OF THE PROPOSED
SECOND RUNWAY AND OFFSETTING MEASURES**

Airports Act 1986

Acquisition of Land Act 1981

STATEMENT OF CASE

1 INTRODUCTION

- 1.1 This statement of case ("the Statement") is submitted on behalf of Legal & General Assurance Society Limited ("L&G") and Hines UK Limited ("Hines") (together the "Objectors").
- 1.2 This Statement will outline the case which the Objectors intend to put forward and explains its relationship to the matters identified by:
 - 1.2.1 The Secretary of State for Communities and Local Government - in her Statement of Matters concerning the applications for planning permission comprising the Stansted second runway proposals;
 - 1.2.2 The Secretary of State for Transport - in relation to the compulsory purchase of land at and in the vicinity of Stansted Airport in respect of the proposed second runway and connected offsetting measures; and
 - 1.2.3 The Secretary of State for Transport - in respect of airport access relating to the Stansted second runway proposals;
- 1.3 In addition to providing a brief outline of the background and an overview of the responses to the call-in issues identified by the Secretary of State for Communities and Local Government and the Secretary of State for the Transport, the Statement will:
 - 1.3.1 give an estimate of how long the presentation of these Objectors' case is likely to take;
 - 1.3.2 give information about the evidence likely to be called and an indication of which evidence the Objectors will wish to cross-examine;
 - 1.3.3 explain that there are no special studies presently proposed; and
 - 1.3.4 deal with other matters which L&G/Hines consider, at this stage, to be pertinent to the consideration and determination of the issues to be considered at the public inquiry.

2 OBJECTIONS

- 2.1 L&G/Hines are supportive of the general principle of a proposed second runway at Stansted Airport but object to the particular proposals. As a consequence they object to the G2 Planning Applications, the CPOs and Highways Orders which have been called-in and are to be considered together at the conjoined public inquiry.

2.2 **Objection is made by L&G/Hines to:**

Planning Applications

- 2.2.1 the following planning applications which have been called-in for determination by the Secretary of State for Communities and Local Government (together the "G2 Planning Applications"):
 - (a) UTT/0400/08/FUL (Runway operational proposals);
 - (b) UTT/0401/08/OP (Terminal and commercial proposals); and

- (c) UTT/0403/08/FUL (Offsetting mitigation proposals beyond the proposed airport boundary).

CPOs relating to the Proposed Second Runway Development

2.2.2 the following compulsory purchase orders which have been called in for determination by the Secretary of State for Transport (together the "CPOs"):

- (a) the Stansted Airport Limited (land at and in the vicinity of Stansted Airport - Second Runway) Compulsory Purchase Order 2008 (the "Airport CPO");
- (b) the Stansted Airport Limited (land at and in the vicinity of Stansted Airport - Offsetting Measures in connection with second runway) Compulsory Purchase Order 2008 (the "Offsetting CPO"); and

Highway Orders/CPOs

2.2.3 the following draft highway orders and compulsory purchase orders which have been called-in for determination by the Secretary of State for Transport (together the "Highway Orders"):

- (a) the A120 Trunk Road (M11 Junction 8b and Airport Access) Compulsory Purchase Order (No.) 20;
- (b) the A120 Trunk Road (Replacement Trinity Junction Airport Access) Compulsory Purchase Order (No.) 20; and
- (c) the M11 Motorway (Junction 8b and Airport Access) Compulsory Purchase Order (No.) 20.
- (d) the A120 Trunk Road (Replacement Trinity Junction Airport Access) Order 20;
- (e) the A120 Trunk Road (Replacement Trinity Junction Airport Access Side Roads) Order 20;
- (f) the A120 Trunk Road (M11 Junction 8b and Airport Access) Order 20;
- (g) the M11 Motorway (Junction 8b and Airport Access) Connecting Roads Scheme 20; and
- (h) the M11 Motorway (Junction 8b and Airport Access Side Roads) Order 20.

3 BACKGROUND.

3.1 L&G owns some 307 hectares (758 acres) of land adjoining Stansted Airport and to the north of the A120 Takeley Bypass. L&G has appointed Hines as its development manager for its land holding in the vicinity of Stansted. This Statement of Case is submitted on behalf of both L&G and Hines.

3.2 This land holding is central to delivery of a second runway proposal for Stansted Airport in accordance with the Air Transport White Paper, as well as strategic employment and transport related development in accordance with the regional economic strategy and the overall vision for the area. Thus L&G is a crucial stakeholder in delivering the airport and strategic business development at this major international gateway location within the London/Stansted/Cambridge M11 growth area alongside the two key strategic economic corridors. It is of

fundamental importance that the planning for the area and these proposals in particular is approached comprehensively and not piecemeal, to ensure that there is no prejudice or blight to delivery of the overall vision for the area. Moreover, in seeking to strike a proportionate balance between the public interest and private rights it is essential that the extent of interference with the private interests of these Objectors should be limited so far as possible to ensure that prejudice and blight is minimised.

3.3 It is of regret and contrary to the public interest that in these respects the Promoters have failed to place any relevant weight on these considerations in evolving their proposals with the result that they are calculated to cause serious and unjustified prejudice and detriment to those overall objectives and these Objectors' legitimate interests.

3.4 These important considerations underpin the various specific objections made by these Objectors to the various applications and orders. To avoid repetition and for the convenience of the inquiry this statement will seek to set the case out on a composite basis, identifying, where appropriate, specific issues relating to any individual application or order.

4 THE CASE

4.1 Reference will be made to the spatial vision and objectives for this area at national, regional and local policy levels. Particular reference will be made to the recently published Regional Economic Strategy 2008, carrying forward the Regional Spatial Strategy ("RSS") for the area¹. Attention will be drawn to the spatial approach to maximise the economic opportunities arising from the Regional Transport Strategy by fully exploiting economic opportunities through the development of the international gateway and delivering sustained long-term investment in the key strategic economic corridors including the M11/West Anglia main line and the A120. The vision is for sustainable development at this gateway "characterised by flourishing and internationally focussed businesses, high and growing employment, increased productivity with low-carbon footprints."² This informs the proper application of the policy in the Airport White Paper, which requires surface transport infrastructure to support the new runway at Stansted "to be developed in conjunction with emerging proposals for the Growth Area."³

4.2 L&G's land holding is ideally positioned to deliver the economic vision for this area, both in its relationship to the airport and other transport infrastructure and otherwise. It is a location that would enable the United Kingdom (including this area and region) to compete effectively with other international gateways across Europe by harnessing economic and employment opportunities with immediate access to a sustainable and integrated transport system. It would be particularly suitable for a range of knowledge-based and related business development and inward investment. It would be well placed to provide complementary services and functions for the airport.

4.3 Reference will be made to the emerging spatial guidance and framework and other policy developments relevant to these issues, including the proposed regional spatial strategy review, the local development framework including the core strategy, and the ecotowns proposals. Attention will be drawn to requirements for

¹ Including RSS policy E7.

² RES p. 79

³ Para 11.37

growth in the area to provide sustainable communities and the proposals at Easton Park that would have a synergy with the opportunities set out above, securing a balanced and long-term sustainable development directly connected with the proposed and existing transport infrastructure system to the advantage of all.

- 4.4 Evidence will be given as to the importance of harnessing deliverable economic and related potential in a way that responds realistically to the market and the clear advantages of these proposals and opportunities in that respect. Attention will be drawn to the importance of choice and competition together with the considerable experience and proven success of L&G and Hines in this respect.
- 4.5 It will be demonstrated that the Promoters' proposals would undermine and prejudice these opportunities in a number of ways, which would be fundamentally contrary to the public interest and wholly unwarranted.
- 4.6 Even on the basis of the runway disposition proposed the proposals seek to extend offsetting measures into these Objectors' land with no regard to the effect on and prejudice to the overall planning of the area. It will be demonstrated that there is no reason why these offsetting provisions should be made as proposed or in large measure at all. It is not accepted that there is the asserted policy support for the particular proposals made to the extent that they are put forward (particularly in so far as they affect L&G's land holdings) or at all. So far as these Objectors are aware, there has been no proper consideration of alternatives at all or in any event that has as yet been put in the public domain. Certainly these Objectors were not consulted on the proposed use of their land for this purpose in any meaningful manner. Rather they were simply presented with them in November 2007, shortly before the G2 Planning Applications were made⁴.
- 4.7 Any justification for off setting provision will be examined. In so far as there is justification, potential alternatives will be considered which would avoid or reduce the prejudice to the overall planning of the area and/or would better secure the offsetting objectives.
- 4.8 Reference will be made to the highway proposals for the scheme. As with the remainder of the scheme in this respect, these have evidently been developed without consideration of the potential comprehensive sustainable provision of supporting infrastructure for other development in the area. On the contrary the proposals would be likely to blight and prejudice that provision. Not only would this be contrary to the spatial vision for maximisation of sustainable opportunity along this key economic strategic corridor at the international gateway and comprehensive transport infrastructure but it would further escalate the damage arising from the expropriation of L&G's land without any proper or reasonable compensatory provision or even, it would appear, consideration.
- 4.9 At the very least the opportunity should be retained to allow for the provision in due course of public transport and other access along the corridor to connect to the transport infrastructure and to the proposed new junction and access road. As these Objectors understand the position, the Highway Orders are restricted to the new trunk road junction, while the remainder of the illustrated access road and roundabout is part of the airport outline application, reserved for subsequent

⁴ These Objectors note the way that consultation is set out in the Statement of Reasons at para 4.3.33 and following. While it may be that there were indeed discussions with Natural England and other bodies, it is unacceptable that there was no consultation with the owners of the land concerned in this respect or consideration of relevant alternatives. So far as these Objectors are aware, the Design and Access Statement does not suggest that there was any such process nor is it found in the Environmental Statement or other supporting documentation.

approval of details. Provision should be made accordingly as part of the permission and other associated obligations to address these deficiencies in what is presently proposed and illustrated. There is little explanation of the evolution of this part of the proposals or the alternatives considered in the supporting material for the proposals. These Objectors will want to examine the reasons for the particular form of illustrated access arrangement, which would appear inherently unsustainable and inefficient, together with the reasons for the exclusion of the whole of the land comprising the Stansted Courtyard commercial complex (recognising that the complex includes a grade 2 listed building).

- 4.10 The proposals are themselves excessive in respect of the non-operational commercial development proposed. There is no sufficient justification of the quantum of floorspace for which permission is sought including the commercial space, the hotel accommodation and the extent of car parking, which appears to be excessive having regard to the principles in PPG 13 Annex B and otherwise. Provision should in any event be limited to that which is properly required directly to support the operation of the airport itself.⁵ Reference will be made to the public interest in encouraging competition and the undesirability of enabling the Promoters to establish a monopoly in the provision of commercial and related space and facilities. Provision of non-operational facilities in the form of commercial or other related space should not be allowed.⁶ Moreover a condition should be imposed and other obligation required to ensure that development is limited accordingly.
- 4.11 Moreover the proposals are promoted without any proper regard to a sustainable modal share target, which has led to the excessive provision for parking and related infrastructure.⁷ The Promoters should be required to enter into a travel plan and other supporting obligations to secure effective sustainability targets as to mode of travel and related matters and the extent of parking provision reduced accordingly.
- 4.12 In this respect these Objectors have concerns over the assumptions made and the basis for adoption of the proposed runway disposition as against a more narrowly spaced alignment. In particular, and having regard to the matters set out above, consideration will be given to the reasons suggested for having a separated terminal provision as opposed to one co-located with the existing terminal and the opportunity for avoiding what was suggested by the Promoters to have been a particular deficiency favouring the preference for Option A, which has become the basis for the scheme proposal and the expropriation of greater areas of L&G's land.
- 4.13 It will be explained how the present proposals would cause fundamental prejudice and blight to delivery of the strategic economic opportunities on L&G's land, together with consequent detriment to or denial of the opportunities for the

⁵ The existing and permitted commercial and industrial development at the airport or other airports operated by BAA should not be regarded as a reliable or appropriate basis for assessing the proper future provision. Moreover, the actual extent of BAA's operational scope may be gauged by the fact that hotel, office, warehouse and car parking functions have been sold or leased to third parties to develop or operate independently.

⁶ It is noted that the case is not put forward for provision of commercial space beyond that which is directly required for airport purposes.

⁷ It would appear from the Transport Assessment (although this should be made clear) that the proposals have been formulated on the basis of a travel strategy commitment simply to reduce the private transport mode for passengers from 55.4% in 2007 to 50.9% in 2030 and the employee private transport modal share from 84.1% in 2005 to 80.2% in 2030. This is inadequate and would ill serve fundamental sustainability objectives, no doubt leading to the excessive parking provision sought.

comprehensive and sustainable development of communities and transport and other infrastructure as referred to above.

- 4.14 While there will be considerable compensation implications for the Promoters (and eventually through airport charges and otherwise the public purse) with consequential prejudice to economic opportunity and other objectives, it is manifest that the present proposals as result of being ill-thought out in the above respects would lead to a particularly poor and unsustainable use of resource. These Objectors will identify the extent of the additional resource implications in addition to the unnecessary blight and detriment that would be caused. It will be for the Promoters to satisfy the Secretary of State that they have sufficient resource to deliver the scheme for which they seek planning permission and the expropriation of these Objectors' land interests.
- 4.15 For all the above reasons the present proposals should be rejected unless they are amended and/or other provision is made to address the above concerns.

5 THE CALL IN MATTERS

5.1 The Development Plan including the Regional Spatial Strategy.

- 5.1.1 For the reasons set out above it will be demonstrated that the present proposals would undermine the sustainability and economic spatial strategy and vision for this location. It would further prejudice opportunities for delivering that vision through the emerging review of the RSS and the Local Development Framework for the area.

5.2 Local considerations in respect of the particular second runway proposal:

- (a) For the reasons set out above the proposals would be contrary to the policies in PPS 1 through the failure to secure overall sustainable provision for the area but rather prejudicing and denying the opportunity for that provision; this includes the poor use of resource and the detriment to the maintenance and exploitation of opportunities for high and stable levels of sustainable economic growth and employment; moreover the proposals for the extensive car parking and other development are themselves unsustainable, as explained above;
- (b) The proposals would conflict with the policies in PPG 4 and emerging PPS 4 for the reasons set out above, including, in particular, the absence of any or any sufficient strategy to support comprehensive and inclusive sustainable development and the failure to encourage provision for sustainable travel patterns either as part of the airport development or in integrating with development opportunities in the wider area.
- (c) The proposals have not had adequate regard to the requirements for biodiversity in PPS 9 as part of any overall sustainable development; the offsetting measures are not justified and are in any event ill-judged as explained above, resulting in a wasteful and unsustainable solution in so far as it is required at all; there has been no apparent or explained consideration of alternatives, particularly in respect of that part of the proposals affecting these Objectors' interests, including the extent to which provision would be better made as part of comprehensive initiatives more removed from the airport itself;
- (d) The proposals would be contrary to the policies in PPG 13; in particular they do not encourage, as they should, use of sustainable modes through

appropriate modal targets with effective enforcement mechanisms; they would blight the provision of sustainable transport provision for the wider area; they would prejudice the provision of sustainable economic and community development with an integrated and comprehensive transportation system; the infrastructure provided is wasteful of resource and the proposals are calculated to encourage travel by car; this particularly applies to the extent of car parking proposed;

(e) These Objectors will draw attention in their evidence to the air quality shadow in the context of the offsetting proposals and the consideration of alternative provision, so far as that is warranted;

5.3 Conditions should be imposed and obligations required to address the matters referred to above together with the rejection of the proposals where they are not justified or are objectionable, again as set out above;

5.4 So far as necessary, conditions and/or obligations should be required in respect of other consents sought to deliver the present proposals as set out above; and

5.5 Obligations should be required as set out above.

6 THE HIGHWAY ORDERS

6.1 These Objectors object to the scheme underpinning these orders as set out above. They do not specifically object to the Highway Orders as such, subject to assurance that a condition or other provision is included to ensure that any future improvement to the junction works is not precluded or prejudiced so far as it may be required to accommodate future economic and other development in the area.

7 THE CPOS

7.1 These Objectors oppose the CPOs on the grounds set out above.

7.2 In the first place they are opposed to the scheme relied on to justify the CPOs in that the scheme is flawed for the reasons set out above. There is no compelling case for the CPOs or any of them for the current scheme as proposed, which is contrary to the public interest for the reasons set out.

7.3 These Objectors are not satisfied specifically as to the extent of the Airport CPO, having regard to the apparently excessive land required for the proposed runway spacing, as explained above.

7.4 They object to the Offsetting CPO, whether or not the other CPOs are confirmed, on the grounds set out above. In particular there is no justification for the acquisition proposed and, to the extent that there is, there are other alternatives that exist and could and should have been adopted. There has been no adequate consultation of these Objectors before they were confronted with the proposed acquisition of their land for these purposes.⁸ Moreover there is nothing to justify the gross and extensive interference with their private rights together with the blight and prejudice that would otherwise be caused. The off-setting CPO is accordingly disproportionate in its effect and an unjustified interference with these Objectors' private rights, as set out above.

⁸ In the Statement of Reasons at para 6.3 it is suggested that the Promoters have sought to purchase the outstanding interests in the Offsetting Order Land by agreement. These Objectors put the Promoters to proof of that assertion so far as their land now said to be required for the offsetting proposals is concerned.

7.5 Thus the CPOs should be rejected in accordance with the advice in Circular 6/2004.

7.6 These Objectors will consider whether to add any further matters as part of their Statement of Case following the Pre-inquiry meeting in accordance with the requirements of the letter from the Planning Inspectorate dated 22 August 2008.

8 **ESTIMATE OF TIMESCALE FOR L&G/HINES'S CASE**

8.1 These Objectors believe that it will be most convenient for the inquiry if their objections are considered together at a single session of the inquiry, to include cross-examination of the relevant witnesses of the Promoters. They would hope that it would be possible to agree many of the matters in issue, at least to the extent of the underlying factual and other material. It is impossible at this stage to put forward more than the most general indication of the appropriate time required but, on this basis and assuming that proofs are not read and matters so far as possible are put in written form, a period of 2-3 weeks would seem appropriate.

9 **WITNESSES**

9.1 It is envisaged that L&G/Hines will call evidence in respect of the following matters:

- (a) Company/commercial
- (b) Planning
- (c) Highways and Transportation
- (d) Aviation
- (e) Ecology
- (f) Landscape
- (g) Agency
- (h) Use of resource and funding implications.

9.2 At this stage, L&G/Hines anticipate wishing to cross examine the Promoters' witnesses relevant to the issues set out above.

9.3 It is not currently proposed to prepare any special study in support of the objections.

9.4 There are no other material considerations to which they would wish at this stage to refer.