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The Rt Hon Sajid Javid MP  
Secretary of State for Housing, Communities and Local Government  
c/o National Planning Casework Unit  
5 St Philips Place  
Colmore Row  
Birmingham B3 2PW

19 March 2018

Also by email to  
[npcu@communities.gsi.gov.uk](mailto:npcu@communities.gsi.gov.uk)

Dear Secretary of State,

**PLANNING APPLICATION UTT/18/0460/FUL 22 FEBRUARY 2018 FROM  
STANSTED AIRPORT LTD TO UTTLESFORD DISTRICT COUNCIL**

**INTRODUCTION – STOP STANSTED EXPANSION**

1. Stop Stansted Expansion ('SSE') was established in 2002 in response to Government proposals for major expansion at Stansted Airport. We have some 7,500 members and registered online supporters including 150 parish and town councils, local residents' groups and national and local environmental organisations. Our objective is to contain the development of Stansted Airport within limits that are truly sustainable and, in this way, to protect the quality of life of residents over wide areas of Cambridgeshire, Essex, Hertfordshire and Suffolk, to preserve our heritage and to protect the natural environment.

**PURPOSE OF THIS LETTER**

2. We are writing to request that you intervene in Planning Application UTT/18/0460/FUL from Stansted Airport Limited ('STAL') to Uttlesford District Council ('UDC') in order to ensure that the decision is made at the appropriate level,

reflecting the national and regional significance of the application, rather than by the Local Planning Authority, UDC. In particular, and for the reasons set out below, we respectfully submit that the application amounts to a nationally significant infrastructure project ('NSIP') as defined in section 23 of the Planning Act 2008 ('the 2008 Act') and so properly falls to be considered by an examining authority appointed by the Planning Inspectorate on your behalf, rather than UDC. If you considered otherwise, this is a matter which we would be willing to test in Court.

3. In addition to the above, however, there are a number of other routes available to you which could secure that the decision is made at the correct level, thus avoiding litigation. They include as follows:
  - a. You can direct that the application be treated as one for which development consent is needed under section 35 of the 2008 Act on the basis that you think it is of national significance, either by itself or when considered with one or more projects (or proposed projects) in the same field;
  - b. You can direct that the application be referred to you under section 76A of the Town and Country Planning Act 1990 ('the 1990 Act') if you think that the development to which the application relates is of either national or regional importance; and
  - c. You can call the application in under section 77 of the 1990 Act in accordance with the 'Caborn principles', as referred to in paragraphs 12 and 41 below.
4. The arguments in favour of exercising one or more of the above powers are, in the light of the matters set out in paragraphs 5 to 11 below, so compelling that we would also challenge a refusal to do so in Court, unless the course of action proposed in paragraph 2 above is agreed.

## **THE STATUTORY POWERS**

### **The 2008 Act**

5. Sections 14 and 23 of the 2008 Act provide as follows in their relevant parts:

#### **"14. Nationally significant infrastructure projects: general**

(1) In this Act “nationally significant infrastructure project” means a project which consists of any of the following—

...

(i) airport-related development;

...

(2) Subsection (1) is subject to sections 15 to 30.”

### **“23. Airports**

(1) Airport-related development is within section 14(1)(i) only if the development is—

(a) the construction of an airport in a case within subsection (2)<sup>1</sup>,

(b) the alteration of an airport in a case within subsection (4), or

(c) an increase in the permitted use of an airport in a case within subsection (7).

....

(4) Alteration of an airport is within this subsection only if—

(a) the airport is in England or in English waters, and

(b) the alteration is expected to have the effect specified in subsection

(5) The effect is—

(a) to increase by at least 10 million per year the number of passengers for whom the airport is capable of providing air passenger transport services, or

(b) to increase by at least 10,000 per year the number of air transport movements of cargo aircraft for which the airport is capable of providing air cargo transport services.

(6) “Alteration”, in relation to an airport, includes the construction, extension or alteration of—

(a) a runway at the airport,

...

(7) An increase in the permitted use of an airport is within this subsection only if—

(a) the airport is in England or in English waters, and

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<sup>1</sup> Which is irrelevant to this application.

(b) the increase is within subsection (8).

(8) An increase is within this subsection if—

(a) it is an increase of at least 10 million per year in the number of passengers for whom the airport is permitted to provide air passenger transport services, or

(b) it is an increase of at least 10,000 per year in the number of air transport movements of cargo aircraft for which the airport is permitted to provide air cargo transport services.”

6. It will be noted that:

a. Any alteration to an airport runway in England which has the effect of increasing the capacity of that airport by either 10 million passengers per annum (mppa) or 10,000 cargo air transport movements (CATMs) is a nationally significant infrastructure project by virtue of sections 14 and 23(4) to 23(6) of the 2008 Act; and (separately)

b. So is any actual increase in either mppa or CATMs by the same amount.

7. In addition, section 35 of the 2008 Act provides as follows in its relevant part:

**“35. Directions in relation to projects of national significance**

(1) This section applies if—

...

(d) the Secretary of State thinks that the project is of national significance, either by itself or when considered with one or more other projects or proposed projects in the same field.

...

(4) The Secretary of State may direct—

(a) the application to be treated as an application for an order granting development consent...

(7) If the Secretary of State is considering whether to give a direction under subsection (4), the Secretary of State may direct the relevant authority to take no further action in relation to the application until the Secretary of State has decided whether to give the direction.

...”

8. Accordingly, you may direct any application for development at an airport to be treated as an application for development order consent under the 2008 Act if you think that the project is of national significance, either by itself or when considered with other aviation projects or proposed projects. Further, you can direct a Local Planning Authority to take no action on an application pending your decision on that matter.

### **The 1990 Act**

9. Section 76A of the 1990 Act provides as follows in its relevant part:

#### **“76A. Major infrastructure projects**

(1) This section applies to—

(a) an application for planning permission;

(b) an application for the approval of a local planning authority required under a development order, if the Secretary of State thinks that the development to which the application relates is of national or regional importance.

(2) The Secretary of State may direct that the application must be referred to him instead of being dealt with by the local planning authority.”

10. Accordingly, you are empowered to direct an application be referred to you if you think that the development to which it relates is of either national or regional importance.

11. Finally, section 77 of the 1990 Act provides as follows in its relevant part:

#### **“77. Reference of applications to Secretary of State.**

(1) The Secretary of State may give directions requiring applications for planning permission... to be referred to him instead of being dealt with by local planning authorities.”

12. The so-called ‘Caborn principles’ make it clear that the cases which are apt to be called-in under this section include those which, in your opinion, may conflict with national policies on important matters; may have significant long-term impact on

economic growth; could have significant effects beyond the immediate locality; or could give rise to substantial cross-boundary or national controversy.

**BRIEF DESCRIPTION OF THE APPLICATION AND THE CONTEXT IN WHICH IT WAS MADE**

13. Under the extant permission for Stansted, the cap on the number of passengers it is permitted to serve is 35 million passengers per annum (35 mppa); and there are separate caps, also, for Passenger Air Transport Movements ('PATMs'), Cargo Air Transport Movements ('CATMs') and "Other" (non-ATM) annual aircraft movements, as follows:

- PATMs = 243,500
  - CATMs = 20,500
  - Other = 10,000
- Total = 274,000**

14. The number of passengers handled by Stansted in 2017 was considerably below the upper limit of the extant permission (just 25.9 mppa), as was the number of aircraft movements:

- PATMs = 161,318
  - CATMs = 12,492
  - Other = 16,111
- Total = 189,921**

15. The original proposal as set out in the applicant's Scoping Report in June 2017 was for an increase in the annual passenger cap from 35 mppa to "approximately 44.5 mppa" and an increase in the overall annual aircraft movements cap by 11,000 to 285,000, with associated construction including two new links to the runway and nine new aircraft stands.

16. That original proposal was amended in October 2017 to an increase in annual passenger numbers to 43 mppa and no increase in annual aircraft movements, but to have a unified aircraft movements cap of 274,000 per annum, rather than separate caps, as under the current permission. Importantly, a unified cap would mean that

there is no restriction on any component part (PATMs, CATMs and Other) other than the total cap.

17. As noted in paragraph 15 above, the new airport infrastructure proposed in the Stansted Airport Planning Application includes alterations to the runway. These comprise an additional rapid exit taxiway ('RET'), an additional rapid access taxiway ('RAT') and nine new aircraft stands. This would make the Stansted runway infrastructure comparable to the Gatwick runway, which is already capable of handling 55 aircraft movements per hour, giving a theoretical capacity of 351,300 aircraft movements per annum, excluding night movements.<sup>2</sup>
18. In practice, the maximum number of aircraft movements that a runway can handle is between 80% and 90% of its theoretical capacity, depending largely on seasonality.<sup>3</sup> This equates to between 281,000 movements and 316,000 movements, excluding night movements, in the case of Stansted and Gatwick. Stansted has permission for 13,700 night movements per annum and Gatwick has permission for 14,450 night movements per annum. In total, therefore, both airports could handle at least c.295,000 aircraft movements per annum. (Last year Gatwick handled 286,000 movements and 45.6 mppa).
19. Further, the capacity of any given airport will generally increase every year – both in terms of aircraft movements and passengers – as ongoing technology improvements enable more hourly runway movements, whilst larger aircraft and higher load factors increase the average number of passengers per passenger air transport movement (PATM). The average number of passengers per PATM has grown by about 2% per annum over the past 10 years at Stansted, from 131 in 2007 to 161 in 2017. This compares to a 2017 figure of 159 at Gatwick.<sup>4</sup>
20. The significance of this is that the additional runway infrastructure for which permission is being sought would enable Stansted to handle considerably more than the 274,000 aircraft movements specified in the application, and also considerably

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<sup>2</sup> 55 x 17.5 hours x 365 days.

<sup>3</sup> Stansted is less seasonal than Gatwick with a monthly peak to average movements ratio of 1.1 compared to 1.2 at Gatwick (see <https://www.caa.co.uk/Data-and-analysis/UK-aviation-market/Airports/Datasets/UK-airport-data/CAA>). Stansted should therefore be able to achieve higher annual runway utilisation than Gatwick. It also carries more passengers per PATM than Gatwick – see paragraph 19.

<sup>4</sup> CAA data for 2017-<https://www.caa.co.uk/Data-and-analysis/UK-aviation-market/Airports/Datasets/UK-airport-data/>.

more than the specified 43 mppa. Indeed, it is worth noting the original passenger and aircraft movement forecasts submitted by STAL in its June 2017 Scoping Report:

<b>Annual Passengers and Aircraft Movements '000</b>					
	<b>2016</b>	<b>2023</b>	<b>2024</b>	<b>2028</b>	<b>2029</b>
<b>Passengers</b>	24,300	35,200	37,000	43,000	44,500
<b>Movements</b>	181	246	255	284	285

Source: Scoping Report, June 2017, Tables 2.3 and 2.4.

21. Importantly, in amending its proposal in October 2017 to 43 mppa and 274,000 movements, STAL did NOT amend the proposed additional infrastructure. There can therefore be no doubt that, with another RET another RAT and nine more aircraft stands, Stansted would be capable of handling at least 285,000 aircraft movements p.a. It would also comfortably be capable of handling 45 mppa or more.
22. In addition, it will have been noted that that no cap is proposed for CATMs. However, if the application were to be approved, there would clearly be enough capacity at Stansted to enable an additional 10,000 annual CATMs to be accommodated, over and above the present cap of 20,500 CATMs per annum.
23. It is also to be noted that whilst the amendment which STAL announced last October was presented as a trimming back of its plans in the light of feedback from the local community, it is clear that (comparing the above table to the table below) the so-called reduction from 44.5 mppa to 43 mppa has been achieved simply by removing the forecast for 2029 and only projecting to 2028. Thus, as if by magic, the application could now be presented as seeking permission for 43 mppa rather than “approximately 44.5 mppa”.

<b>Annual Passengers '000</b>					
	<b>2016</b>	<b>2023</b>	<b>2024</b>	<b>2027</b>	<b>2028</b>
<b>Total</b>	24,300	36,370	38,100	42,600	43,000

Source: STAL Forecast for Stansted Airport, as amended, October 2017.

24. It might reasonably be asked: *What happens in 2030?* The answer is suggested in the Sustainable Development Plan (‘SDP’) for Stansted, which STAL published in 2015. This considered the development of Stansted Airport to 2030 and was based

on a projected throughput of up to 45 mppa – an increase of 10 mppa on the current limit.

25. It is also to be noted that:

- a. Until the current Planning Application, STAL's standard practice was to use round numbers in its Planning Applications and forecasts, following the standard practice of the Department for Transport ('DfT').
- b. Long term forecast intervals of 5 years or 10 years (2025, 2030, 2040, 2050 etc.) have also been the historic norm for both STAL and the DfT.
- c. The Airports Commission followed the same convention.
- d. The last major STAL Planning Application, submitted in April 2006 for an uplift in the passenger cap from 25 mppa to 35 mppa, provided aircraft movement and mppa projections for Stansted to 2030, i.e. 24 years ahead.
- e. In addition, whereas the current STAL application is for an 8 mppa increase in the passenger cap (having originally been for a c.9.5 mppa increase), each of the last two STAL Planning Applications to increase the size of Stansted Airport has applied for permission for an additional 10 mppa:
  - i. The 2001 application to increase the passenger cap from 15 mppa to 25 mppa; and
  - ii. The 2006 application to increase the passenger cap from 25 mppa to 35 mppa.

26. The STAL projections in this application, originally 44.5 mppa for 2029 and subsequently revised to 43 mppa for 2028, therefore look very odd in comparison to past practice. They are clearly the contrived result of STAL attempting to avoid the thresholds for a NSIP set out in section 23 of the 2008 Act. For the reasons given in paragraphs 27 to 42 below, however, that attempt has failed.

**THE REASONS WHY PLANNING APPLICATION UTT/17/1640/SO18/0460/FUL MUST BE DEALT WITH AS A NSIP**

27. In particular, whilst STAL has gone to considerable lengths to try to avoid this Planning Application being dealt with as a NSIP, through contorting the application

so that it proposes an increase in passenger throughput just below the 10 mppa threshold, STAL has failed to achieve that contrived outcome for the following two reasons:

**Reason One**

- a. Section 23(5) of the 2008 Act makes it clear that where any alteration to a runway is proposed (including alterations through the provision of an additional RET and RAT and stands), the relevant thresholds relate to the **potential capacity** of the proposed development – i.e. the number of passengers or CATMs the airport becomes capable of servicing – not the amount of increased actually proposed at that particular time.
- b. In the instant case, for the reasons given in paragraphs 15 to 26 above, the runway alterations for which this application has been made would increase Stansted's capacity considerably beyond both statutory thresholds.
- c. On this ground alone, the proposed development plainly meets the criteria of a NSIP under sections 14 and 23(5) of the 2008 Act.

UDC has plainly erred in law in considering otherwise. It has failed to appreciate that section 23(1) creates three separate categories of aviation NSIP, and has ignored (e) below, and looked only at (f):

- d. The construction of an airport, which is irrelevant to this application, but is substantively provided for in subsections (2) and (3);
- e. The alteration of an airport, which is critical to this application and is substantively dealt with in subsections (4) to (6), which make it clear that the determinative consideration is the increased **capacity** which results from the alteration; and
- f. Any actual increase in the permitted use, which is substantively dealt with in subsections (7) and (8).

**Reason Two**

- a. In addition, if the application were to be approved there would clearly be enough capacity at Stansted to enable an additional 10,000 annual CATMs

to be accommodated over and above the present cap of 20,500 CATMs per annum; and

- b. In the absence of any proposed cap, the application therefore also falls within the criteria of a NSIP under section 23(8) of the 2008 Act, through breaching the threshold set out in subsection (8)(b).

28. For the above reasons, Planning Application UTT/18/0460/FUL must be dealt with as a NSIP under sections 14, 23(5) and 23(8)(b) of the 2008 Act, and any failure to do so would be wrong in law and challenged by SSE (unless one of the steps identified in paragraphs 29 to 42 below is taken instead).

### **SECRETARY OF STATE DIRECTION UNDER SECTION 35 OF THE 2008 ACT**

29. Whilst STAL has contorted the application so that it proposes an increase in passenger throughput marginally less than the 10 mppa threshold, that is to be seen in the context of a proposed project to increase passenger movements beyond that threshold by 2030 – see: the SDP for Stansted published by STAL in 2015. In other words, STAL is proposing to circumvent the passenger movement threshold set down in section 23(8) of the 2008 Act by crossing the river in two jumps.

30. However, that device plainly engages section 35 of the 2008 Act in that the present application has to be seen alongside the post-2028 “proposed project” through which, in combination, the 10 mppa increase in passenger movements would be exceeded. In those circumstances any reasonable Secretary of State, properly interpreting the 2008 Act and acting in fidelity to its statutory purpose, would be compelled to make a direction under section 35 of the 2008 Act.

31. But that is not the end of it, since the current proposal also has to be seen in the context of:

- a. The ‘Call for Evidence’ by the DfT in July 2017, as a precursor to a new Aviation White Paper to be published by the end of 2018 to replace the Government’s 2013 Aviation Policy Framework (‘APF’).
- b. The draft Airports National Policy Statement (‘ANPS’), first published in February 2017 for public consultation and subsequently revised in October 2017. The Government intends to lay the ANPS before Parliament by July

2018. Its main focus will be the Government's priority of a third Heathrow runway but it will also have policy implications for new runway capacity at other airports in the South East of England.

- c. The national aviation forecasts and CO<sub>2</sub> emissions projections for the UK to 2050, published by the DfT in October 2017 to inform future aviation policy.

32. Interrelations between all of those proposals is considered in greater detail in paragraphs 44 to 53 below. Suffice it to say at this stage, however, that:

- a. The mere fact that the Government is preparing an ANPS demonstrates that **all** aviation proposals significantly to increase either the capacity of a major airport, or actual movements, have national significance, potentially impacting upon the overall national strategy for aviation; and
- b. The current Planning Application is plainly premature at this stage, coming in advance of the final ANPS. (We deal with this in greater detail in paragraphs 54 to 61 below).

### **SECRETARY OF STATE DIRECTION UNDER SECTION 76A OF THE 1990 ACT**

33. As noted in paragraphs 3 and 9 above, you are empowered to direct a Planning Application be referred to you if you think that the development to which it relates is of either national or regional importance. For the reasons given above, any reasonable Secretary of State would consider this application to be of national importance, and all the more so regional importance. Indeed, even the applicants for permission assert the proposal to be of both national and regional importance – that is made absolutely clear in their press release, dated 22<sup>nd</sup> February 2018 and accompanying the application, in which the following comments were made:

“Businesses across the UK and in the vibrant East of England to benefit”

“The application seeks permission to make best use of the airport's existing single runway over the next decade, a move which will deliver significant economic benefits to the UK and the vibrant East of England

region, create 5,000 new on-site jobs, improve passenger choice and convenience and boost international long-haul routes to fast-growing markets like China, India and the US. The application will also ease pressure on the London airport system by unlocking additional capacity at a time when other airports are full.”

“It is vital for the region that Stansted is able to build on its momentum and the long-term proposals that we have outlined today will enable us to do this ...”

“Stansted’s potential and spare capacity remains untapped so it’s vital to make best and efficient use of the existing infrastructure to provide more growth opportunities and greater value for consumers at a time when runway capacity is more constrained in the south-east of England, and in light of the challenges Brexit may bring”

34. Whilst SSE may not agree with the above assertions, what matters is that they are assertions as to **national and regional significance** and therefore fall to be tested at a level of decision-making appropriate to projects of national and regional significance under either the 2008 Act or section 76A of the 1990 Act. The same applies to SSE’s concerns regarding the impacts of the proposal, impacts which go far wider than UDC’s administrative boundaries as outlined below.

#### Strategic Economic Importance

35. Section 78 of the Civil Aviation Act 1982 grants the Secretary of State the power to set night flight quotas for three designated airports, namely Stansted, Heathrow and Gatwick. At all other UK airports, the arrangements for allowing (or disallowing) night flights are a matter for the Local Planning Authority. The designation of an airport by the Secretary of State is evidence of its wider importance to the national economy.

#### Employment

36. The most recent Stansted Airport Employment Survey<sup>5</sup> shows that just 18% of the airport’s employees are residents of Uttlesford; 30% are residents of other parts of Essex; 26% are residents of Hertfordshire; 7% are residents of North & East London;

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<sup>5</sup> STAL Environmental Statement, Vol 1, Table 11.1.

3% are residents of Cambridgeshire and the remaining 16% are from further afield. This application therefore has employment implications which go far beyond Uttlesford – a point which is underlined by STAL’s claim that Stansted Airport is the biggest single site employer in the East of England region. As a further indication of the ‘disconnect’ between UDC and Stansted Airport, just 4.3% of economically active population of Uttlesford are employed at Stansted Airport.<sup>6</sup>

Environmental Impacts

37. The environmental impacts of Stansted Airport also extend far beyond the borders of Uttlesford. SSE’s membership base bears testimony to that, with significant numbers of members not only in Essex but also in Hertfordshire, Cambridgeshire and Suffolk. Analysis of airport noise complaints also shows a wide geographical spread of noise impacts across Essex, North and East Hertfordshire and South Cambridgeshire and large parts of Suffolk. Similarly, the road traffic impacts of Stansted Airport extend far beyond the borders of Uttlesford.

Customer Base

38. Analysis of Stansted Airport passenger origins and destinations from the most recently available CAA passenger survey report<sup>7</sup> shows the following breakdown:

Region	Share of Total
East Midlands	3.4%
East of England	29.1%
London & South East	60.6%
North East	0.3%
North West	0.5%
Scotland	0.2%
South West	2.3%
Wales	0.6%
West Midlands	1.7%
Yorkshire & Humberside	1.2%
Northern Ireland	0.0%
<b>Total</b>	<b>100.0%</b>

Source: Origin/destination of Stansted Passengers in 2016 CAA Survey Report

<sup>6</sup> Labour Market Statistics for Uttlesford District for the 12 months to 30 September 2017, NOMIS.  
<sup>7</sup><https://www.caa.co.uk/Data-and-analysis/UK-aviation-market/Consumer-research/Departing-passenger-survey/Survey-reports/>

39. Accordingly, the development to which this Planning Application relates has far wider relevance than just the District of Uttlesford. Indeed, UDC itself defines this Planning Application as a “strategic major application” which meets the criteria approved by the Council on 30 March 2017<sup>8</sup>, allowing for a Planning Performance Agreement (‘PPA’) to be entered into with the Applicant.
40. In those circumstances, and again properly interpreting the 1990 Act and acting in fidelity to its statutory purpose, any reasonable Secretary of State would be compelled to make a direction under section 76A unless action had already been taken under the 2008 Act.

### **SECRETARY OF STATE DIRECTION UNDER SECTION 77 OF THE 1990 ACT**

41. As further noted in paragraphs 3 and 11 above, section 77 of the 1990 Act affords you the power to call-in any application pursuant to the so-called ‘Caborn principles’. Those principles are plainly engaged by this application for all of the above reasons and those set out in a. to d. below:

- a. Planning Application UTT/18/0460/FUL may conflict with national policies when the Aviation White Paper is published;
- b. Planning Application UTT/18/0460/FUL may have significant long-term impact on economic growth;
- c. Planning Application UTT/18/0460/FUL will have significant effects across a wider area than a single local authority, and beyond the immediate locality also; and
- d. Planning Application UTT/18/0460/FUL may give rise to substantial cross-boundary or national controversy.

42. Accordingly, properly interpreting the 1990 Act and acting in fidelity to its statutory purpose, any reasonable Secretary of State would be compelled to make a direction

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<sup>8</sup> <http://uttlesford.moderngov.co.uk/Data/Cabinet/201705251900/Agenda/Document%206.pdf>.

under section 77 unless action had already been taken under either the 2008 Act or section 76A of the 1990 Act.

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43. For all of the reasons given above, any failure to secure that the decision on Planning Application UTT/18/0460/FUL is made at the correct level, reflecting its national and/or regional significance, will be an error of law. For completeness, however, we set out below the context within which Planning Application UTT/18/0460/FUL has been made in terms of the UK aviation strategy and forecasts, and how this interrelates to the issues of both:

- a. Aviation carbon emissions; and
- b. Prematurity.

#### **UK AVIATION STRATEGY AND FORECASTS**

44. As noted in paragraph 31b above, in February 2017 the Government published its first draft ANPS<sup>9</sup> and began a formal public consultation process. The draft ANPS states:

“The Airports NPS provides the primary basis for decision making on development consent applications for a Northwest Runway at Heathrow Airport, and will be an important and relevant consideration in respect of applications for new runway capacity and other airport infrastructure in London and the South East of England.”

45. In July 2017, the Government launched a wide-ranging aviation consultation with a ‘Call for Evidence on a New Aviation Strategy for the UK’. The Government has said that:

“The call for evidence period will be followed by a series of consultations that will run throughout 2017 and 2018, culminating in the launch of the aviation strategy at the end of 2018.”

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<sup>9</sup> As noted in paragraph 46, a revised draft ANPS was published in October 2017.

46. In October 2017, a revised draft of the ANPS was published and again put out to public consultation, and a Parliamentary scrutiny process was set in train. The Government intends to seek Parliamentary approval for the final ANPS by the 2018 summer recess. In the light of the foregoing, it is reasonable to expect that, whilst there are significant uncertainties in relation to the Government's aviation policy today, there will be far greater clarity by the end of 2018.

47. This begs the question as to why STAL appears to be in such a rush to have its Planning Application approved prior to the publication of the final ANPS and the Government's new aviation strategy, especially given that:

- a. There is no pressing need for STAL to make any application to increase the present cap of 35 mppa to 43 mppa;
- b. There are no lengthy construction projects required to accommodate such a growth in passenger numbers for which pre-planning might be necessary;
- c. So far as passenger growth is concerned, STAL's own projections indicate that the current 35 mppa permission will be sufficient to meet STAL's needs over the next five years;
- d. The most recent DfT forecasts for UK aviation, published in October 2017, are considerably lower than STAL's forecasts for Stansted<sup>10</sup>;
- e. If, as planned, a third runway is built at Heathrow in the next 10 years, the Government projects that demand at Stansted would actually decline from 25.9 mppa in 2017 to 22 mppa in 2030; and that even by 2040 Stansted would still be handling only 32 mppa, i.e. less than the present cap, which would not be reached until 2043.

48. There is, accordingly, no need for a Stansted Planning Application to raise the cap from 35 mppa to 43 mppa at this time. And yet Planning Application

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<sup>10</sup> The DfT expects Stansted to grow to just 31 mppa by 2030, and 35 mppa by 2033, i.e. still within the current cap, despite the DfT's assumption that Heathrow, Gatwick, Luton and London City would all be 100% full by 2030, based on no additional runways and current planning caps remaining in place.

UTT/18/0460/FUL has not only been made, but made in a way which was designed to enable it to be approved by the Local Planning Authority, UDC, rather than be subject to more detailed scrutiny at a national level. Although, for all of the reasons set out above, that endeavour has failed as a matter of law, there are deep concerns that the attempt was even made, and for the following reasons in particular:

- a. Coming before the White Paper, there are obvious risks that it will pre-empt, or fail to comply with, national aviation policy in its final form;
- b. Coming before a Local Planning Authority only, with a local focus only and limited expertise and resources, there are obvious risks that matters of national and/or regional significance will not appropriately be scrutinised; and
- c. Coming before a Local Planning Authority, rather than a national authority, there are obvious risks that should the proposal be approved, certain important controls which SSE would wish to have imposed (consistent with past approvals at both Heathrow and Gatwick) could not be secured:
  - i. A ban on night time flights – as agreed for Heathrow and
  - ii. A moratorium on future expansion – as previously agreed for Gatwick.

49. By way of stark contrast, however, there are no downsides to the decision being taken at an appropriate, national, level. Quite apart from all of the above concerns being capable of being met, UDC would still be able to present its case and could still seek contributions for necessary, supporting infrastructure.

### **AVIATION CARBON EMISSIONS**

50. The UK has a legally binding target to reduce its CO<sub>2</sub> emissions by 80% by 2050 compared to 1990 levels and the Government accepts that the UK aviation industry must play its part in helping to ensure that the overall UK target is met. The longstanding advice from the Committee on Climate Change ('CCC') is that emissions from international aviation, while not formally included in carbon budgets,

must be allowed for by setting aside 37.5 Mt<sup>11</sup> from the total carbon budget allowed in 2050 (around a quarter of the allowable CO<sub>2</sub> by that date).

51. The Airports Commission sought to frame its airport expansion proposals around a cap of 37.5 MtCO<sub>2</sub> by 2050 and the DfT also appears to be working towards that target. The most recent DfT CO<sub>2</sub> forecasts (central baseline) for UK aviation (October 2017) project emissions of 38.6Mt in 2030, 38.1Mt in 2040 and 37.0Mt in 2050. With a third runway at Heathrow, the DfT projects that CO<sub>2</sub> emissions from UK aviation would be 39.9 Mt in 2050.
52. For Stansted, the DfT's central forecast is for CO<sub>2</sub> emissions of 1.6Mt in 2030 and 2040 and 1.5Mt in 2050. This is based on 198,000, 212,000 and 212,000 ATMs respectively. The STAL Planning Application projects 2.8Mt of CO<sub>2</sub> emissions in 2028, which is 72% more than the nearest comparable DfT projection (2030). This is not surprising since STAL is projecting far higher numbers of ATMs. STAL has not provided any projections for 2040 or 2050.
53. There clearly must be a co-ordinated national policy towards the expansion of UK aviation if national CO<sub>2</sub> emissions targets are to be met. It cannot be left to individual local planning authorities to determine airport expansion projects without regard to the overarching requirement to meet the UK's climate change targets.

## **PREMATURITY**

54. Section 38 of the Planning and Compulsory Purchase Act 2004 requires that the "determination [of planning applications] must be made in accordance with the [development] plan unless material considerations indicate otherwise." At this stage the development plan for Uttlesford is unclear, as is the Government's policy for the future development of aviation and UK airports, which is plainly a key material consideration.
55. The new Draft Uttlesford Local Plan (which has not been updated since 2005) for the development of the District until 2033 is finally nearing completion. It is expected to

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<sup>11</sup> This stems from an earlier Government commitment, made in January 2009, to bring UK aviation's CO<sub>2</sub> emissions to below their 2005 level (which was 37.5Mt) by 2050.

be subject to Examination in Public towards the end of this year and a final version of the Plan should be in place in the early part of 2019. Meanwhile, the Emerging Local Plan cannot be said to support expansion of Stansted Airport beyond 35 mppa.

56. Significantly, in August 2017, after STAL had submitted its Scoping Report for an increase to 44.5 mppa, a significant amendment was agreed to the Draft Local Plan by Uttlesford Cabinet and Council whereby the wording in ‘Objective 2c - London Stansted Airport’ was changed from:

“To accommodate development by:

- Utilising the **full** capacity of the existing runway and provide for the maximum number of connecting journeys by air passengers and workers to be made by public transport: and
- Ensuring that appropriate surface access infrastructure and service capacity will be provided without impacting on capacity to meet the demands of other network users.” [our emphasis]

to:

“To accommodate development by:

- “Utilising the **permitted** capacity of the existing runway and provide for the maximum number of connecting journeys by air passengers and workers to be made by public transport: and
- Ensuring that appropriate surface access infrastructure and service capacity will be provided without impacting on capacity to meet the demands of other network users.” [our emphasis]

57. Thus, the emerging Local Plan supports the development of Stansted Airport to its permitted throughput of 35 mppa but does not endorse the higher numbers of passengers or ATMs being proposed by STAL.

58. Turning to the national policy framework, Parliamentary approval of a final version of the ANPS is expected by July 2018 and the Government has said that it will publish its new Aviation White Paper by the end of December. Meanwhile, there is no clear Government policy on the extent and timing of any further expansion at Stansted.

59. It is difficult to rationalise the apparent urgency which STAL is attaching to this Planning Application, both in relation to the timing of its submission and in relation to the haste with which STAL is seeking to secure approval. Having submitted its Scoping Report in June 2017, STAL is seeking a determination by the end of May 2018 – less than 12 months from start to finish. By comparison, in the case of the last comparable Stansted Airport Planning Application – the BAA “G1” proposal for the expansion of Stansted from 25 mppa to 35 mppa – there was a period of two years and four months between Scoping Report and first determination.

60. It is also difficult to rationalise STAL’s apparent urgency when, as noted in paragraph 20 above:

- a. STAL’s own forecasts show that the 35 mppa cap will not be reached until 2023;
- b. The latest Department for Transport forecasts (October 2017) show that the 35 mppa cap will not be reached until 2033; and
- c. Given that no lengthy construction works are involved, there would be no harm in STAL waiting for 12 months or so until the local and national policy context is more settled.

61. This would also allow post-Brexit implications for the UK aviation industry to become clearer. In this latter context, it can be noted that the Chief Executive of Ryanair, which accounted for 82% of all of Stansted’s passengers in 2016, has repeatedly made dire warnings about the post-Brexit consequences for the UK aviation industry.

### **CONCERNS RELATING TO UDC COMPETENCE AND IMPARTIALITY**

62. With a population of just 86,200, UDC is a relatively small district council and has neither the resources nor the level of expertise necessary to deal with this Planning Application. We also have serious concerns that UDC may have already pre-judged this application and intends to approve it. We catalogue the principal reasons for these concerns in the attached Annex A.

## **CLOSING POINTS**

63. This is a matter of both national and regional importance. It is also a matter of some urgency. UDC's stated final deadline for determination of Planning Application UTT/18/0460/FUL is 18 July 2018. For all of the above reasons, SSE strongly believes that, as a matter of both law and policy, UDC is not the competent authority to make that decision. You, however, have the power to intervene to ensure that the decision is made at the appropriate level, reflecting the application's national and regional importance and, by this letter, we have formally invited you to do so.
64. We have also indicated that any failure to intervene in this matter will be tested in Court. To that end, we respectfully request that you give us your decision on this formal request by close of play Friday 20<sup>th</sup> April, which gives you enough time to consider matters fully and SSE enough time to: (a) commence proceedings for judicial review of any adverse decision; and (b) secure interlocutory relief with regard to UDC, thus preventing the local authority from deciding Planning Application UTT/18/0460/FUL pending consideration by the Court.

Yours sincerely,



Peter Sanders  
Chairman, Stop Stansted Expansion

## Annex A

### **CONCERNS RELATING TO UDC COMPETENCE AND IMPARTIALITY**

#### *Concerns about Differential Access to Council*

**A1.** SSE's concerns were first raised at a meeting which took place on 28 July 2017 between, on the one hand, the UDC Leader, UDC Chief Executive and UDC Director of Public Services and the Leader of the Liberal Democrat Group<sup>12</sup> and, on the other hand, the SSE Chairman, Deputy Chairman and Campaign Director. SSE's file note of that meeting is appended to this annex.

**A2.** The meeting discussed a range of issues but the main topic was the forthcoming Stansted Airport Planning Application. STAL had submitted a Scoping Report on 2 June and SSE had been pressing UDC Planning Department (unsuccessfully) for an opportunity to present its (25-page) response to the Scoping Report in order to "explain, justify or expand" on any of the 109 points therein.

**A3.** The 28 July meeting barely discussed Scoping Report issues. As can be seen from the file note, the main focus was on higher level issues, particularly the question of local versus national determination. It soon emerged that the central reason for UDC being so keen to determine the application locally was the importance it attached to securing section 106 benefits, particularly a sizeable financial contribution from MAG to help fund improvements to Junction 8 of the M11. This was viewed by UDC as a critical issue in the wider context of being able to deliver the challenging housing proposals contained in the draft UDC Local Plan.

**A4.** By the end of the meeting, the SSE team were left in no doubt that UDC intended to approve the airport planning application and it was largely a question of negotiating a favourable section 106 agreement with MAG. It was also clear that extensive discussions had already taken place between UDC and MAG.

**A5.** SSE was subsequently able to establish, through requests under the Freedom of Information Act 2000 ('Fol requests'), that UDC planning officers held 36 meetings with MAG between 8 February 2016 and 11 December 2017. UDC planning officers say that

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<sup>12</sup> The meeting was arranged as a meeting between SSE and the three UDC party leaders. The leader of UDC represents the Conservative Party, the Liberal Democrat leader attended, and the leader of the third party represented on UDC, Residents for Uttlesford ('R4U'), was unable to attend.

the first 28 of these meetings were informal and so (they claim) there was no requirement to produce minutes. A confidentiality exemption from disclosure is claimed for the remaining eight meetings.

**A6.** By comparison, at time of writing, SSE is still waiting for the opportunity of a meeting with UDC Planning Department, having made three requests for such a meeting, the first of these in June 2017, when the response received was that “officers are too busy”.

### Concerns about London Stansted Cambridge Consortium (‘LSCC’)

**A7.** The LSSC is a non-statutory organisation which primarily comprises local authorities in the London–Stansted–Cambridge (‘LSC’) corridor – including UDC – alongside private sector and other “partners” and “supporters”. Its principal purpose is to promote economic development in the corridor. At its inaugural meeting in June 2013, it declared: “The LSCC brings together local public and private sector bodies to champion and lobby for the region”.

**A8.** The objectives of the LSSC are described more fully on the organisation’s website:

“The Consortium membership board has agreed three simple objectives:

- Promote the corridor – which covers supporting our Members with the development of the narrative for the corridor, promotion and positioning with government, Whitehall, and the investor community;
- **Make the case for infrastructure – prioritising and focussing on the key infrastructure requirements which are needed to support growth. This includes London Stansted Airport as one of the key infrastructure components, as well rail, road, digital and utilities;** [our emphasis]
- Support our key sectors – identifying growth spaces for expansion, supporting labour mobility, and encouraging skills development.”

**A9.** The LSCC has no published constitution and it does not publish financial accounts. However, SSE has been able to obtain LSCC income and expenditure details through a FoI request to Haringey Borough Council, which provides a book-keeping service for the LSCC. This shows that in 2016/17 UDC made a £10,000 contribution to the LSCC and Stansted Airport was the largest private sector sponsor, with a £15,000 contribution.

**A10.** The LSSC identifies Stansted Airport as its main commercial sponsor and supports the expansion of Stansted to (at least) maximum use of the existing runway, for example:

“The LSCC wishes to see the airport fully utilised to maximise the economic benefits of this major strategic asset to the corridor.”

...

“Going beyond the planning agreement to maximum use of the existing airport infrastructure, at 45 mppa, would generate £2.660 billion and support an additional 8,310 jobs.”

**A11.** UDC is a leading supporter of the LSCC. The leader of UDC has spoken at two of the last three LSCC conferences, and UDC’s annual financial contribution to the LSCC helps to finance its lobbying activities, including in relation to the expansion of Stansted Airport beyond its current planning limit.

**A12.** Accordingly, we submit that UDC’s close association and co-sponsorship of the LSCC calls into question the impartiality of UDC and its suitability, as the LPA for Stansted Airport, to rule on the current Planning Application.

### Concerns about Process

**A13.** The Planning Application was submitted on 22 February and posted on the UDC website together with a heading “Important dates for the application” which gave a 3 April deadline for public comments and a determination deadline of 24 May 2018. The UDC website also advised that hard copies of the Planning Application were available from the Applicant at £300 per copy. (In the event there were no hard copies available until the following week.)

**A14.** SSE immediately asked UDC to extend the 3 April deadline, pointing out that:

- The Planning Application was extremely complex and extended to 2,930 pages;
- Parish & Town Councils generally only met on a monthly basis and would have insufficient time to consider;
- The effective deadline was 29 March, due to the intervention of Easter;
- On 2 June 2017, UDC imposed an unrealistically tight deadline for responses to the MAG Scoping Report, saying that it only had five weeks to provide its Scoping Opinion to MAG. In the event UDC did not provide MAG with its Scoping Opinion until 21 December 2017. (It can also be noted that when inviting comments on the Scoping Report UDC understated the scale of the proposed development – saying that it

proposed six additional stands whereas the true figure was nine. It took almost a month and a second reminder from SSE before this error was corrected.)

**A15.** Notwithstanding the above, UDC still refused to extend the deadline for public comments. Even when SSE subsequently pointed out to UDC that its determination deadline of 24 May was wrong in law and should not be any earlier than 15 June, UDC would still not extend its 3 April deadline for public comments

**A16.** When emailing local Parish & Town Councils to notify them of the Planning Application and of the 3 April deadline for their comments, UDC took the highly unusual step of telling Parish & Town Councils what the application was NOT (“The application is NOT seeking permission for a second runway”), intending thereby to play down the importance of their scrutinising the application.

**A17.** Meanwhile, SSE continued to press UDC to extend the 3 April deadline, but without success, and when SSE asked for an explanation for the apparent urgency – when MAG itself said that the 35 mppa cap would not be reached for another five years – UDC advised SSE as follows:

“The council has negotiated an agreement with MAG which, although setting target dates for key milestones in the process for consideration of its application, does give the council an extension of time over the statutory period for a decision. It also provides the council with additional resources to help meet these target dates. The application fee of some £2,000 did not enable that.”

**A18.** Only then did it become clear that UDC had entered into a Planning Performance Agreement (‘PPA’) with MAG which set down a timetable for dealing with the Planning Application. Initially a redacted copy of the PPA was published on the UDC website such that the financial contribution from MAG was not shown. However, under pressure from SSE and (we understand) many of its own councillors, the total MAG contribution was un-redacted and is shown to be £117,781 plus VAT.

**A19.** SSE does not challenge the principle of PPA agreements, but it is clear that in this case the effect of the PPA is to curtail the opportunity for public engagement. In the case of the last comparable Stansted Airport Planning Application – by BAA in 2006 for an additional 10 mppa – there was a period of 21 months between the Scoping Report and

the Planning Application and a further seven months for the application to be determined. This enabled detailed consideration of the impacts and extensive public consultation.

**A20.** For the comparable 2006 airport planning application, UDC allowed a full week for public hearings and ensured that these were well advertised. The hearings were all over-subscribed and all took place inside a packed Council chamber even though they were also broadcast on webcam. By comparison, on this occasion UDC has allowed just one day for public hearings.

**A21,** The UDC Planning Department, when seeking endorsement from the Council on 30 March 2017 for the use of PPAs, stated in its report to Council:

"Appropriate publicity and marketing of PPAs will be undertaken. The concept will be explained to communities to help it to be understood."

The reality, however, is that prior to public disclosure by SSE, there was no communication from UDC to local Parish and Town Councils or the general public. Even UDC councillors appeared to be taken by surprise when informed of the agreement with MAG.

**A22.** A further cause for concern is that the PPA reveals that the start date for discussions on a section 106 agreement between UDC and MAG will be as early as May – long before the impacts of the proposed development have been adequately assessed. This reinforces the clear message that SSE obtained at its UDC meeting on 28 July 2017 that UDC is intent on approving this Planning Application and its primary focus is on the section 106 benefits that can be secured in return for local approval.

#### Concerns about Abuse of Process

**A23.** A letter from the Chief Executive of Stansted Airport to airport employees on 28 February 2018 urged employees to post messages of support for the airport Planning Application on the UDC website, using an automated system, as follows:

"It is quick and easy to register your support for the application and will take two minutes. All you need to do is log onto [www.ourstansted.com](http://www.ourstansted.com) and complete the registration form. This will then send a letter automatically to the Council outlining why you support the plans for the airport."

**A.24** As a result of the [www.ourstansted.com](http://www.ourstansted.com) system, large numbers of almost identical automatic emails have already been sent to UDC supporting the application. It appears that at least some of these have been sent unwittingly and involuntarily, for example:

A.25: The following email was received by SSE on 7 March 2018:

**From:** [REDACTED]  
**Sent:** 07 March 2018 21:24  
**To:** Stop Stansted Expansion  
**Subject:** Miss leading people on Facebook

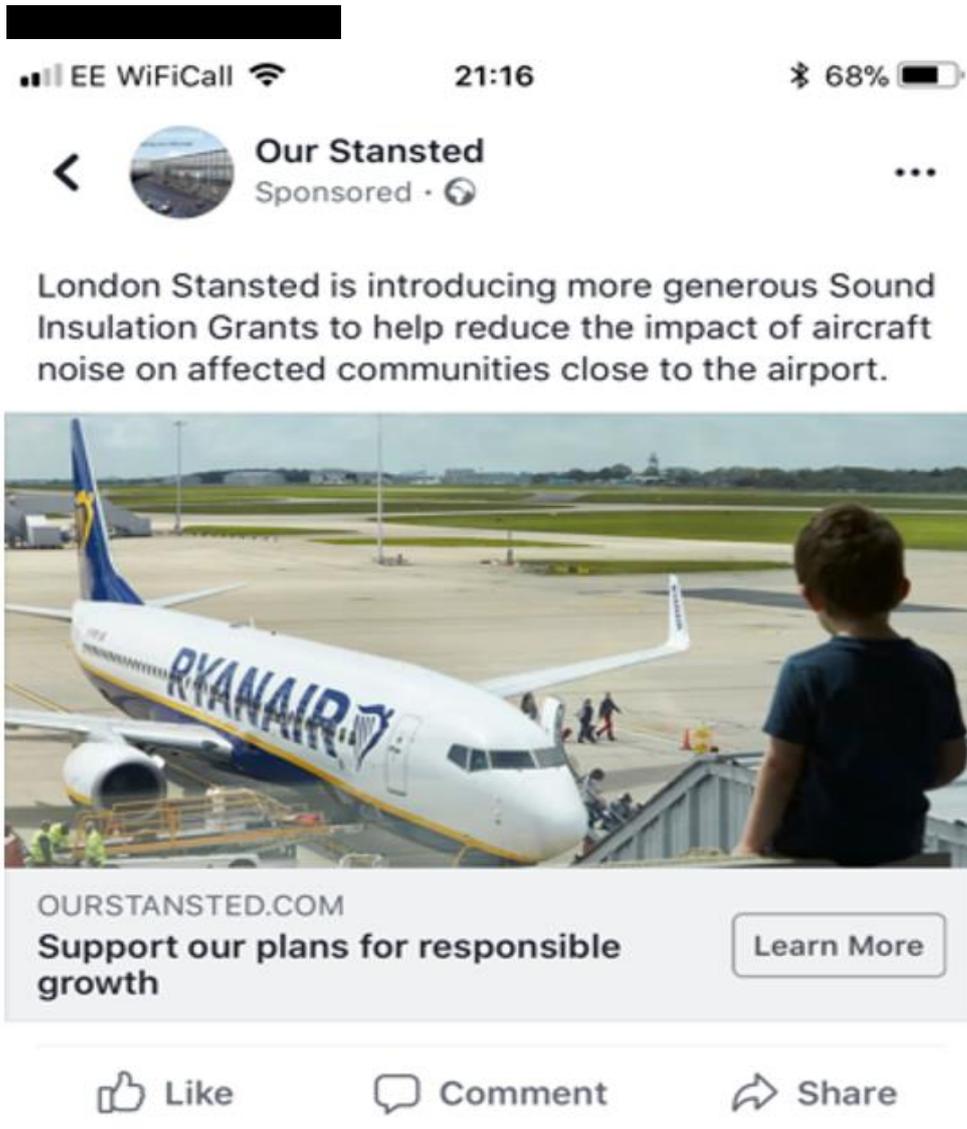
Hi guys thought you might find this interesting, below is a screenshot that I have just seen on Facebook for grant funded insulation for any house effected by Stansted Airport Noise. When you click on the link there's a mandatory box that has to be ticked.

In ticking the box you fully support the expansion of Stansted Airport. It's very misleading and is this a scam to rally support for the expansion?

I do not know if it will work but here is where the "learn more" button takes you.

<http://www.ourstansted.com/community/>

Kind regards



**A26.** The following email is on the UDC website for comments on the Planning Application and is shown by UDC as supporting the application.

**From:** James Collins  
**To:** Joel Charles  
**Cc:** James Collins; Stansted Planning Application; Michael Garnett; Sue Livings; Mike Garnett  
**Subject:** Re: Stansted  
**Date:** 09 March 2018 20:44:06

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Dear Joel

I feel like I have been totally misled. I completed a survey after receiving an email regarding parking at STN. I clicked a link of which gave my support to STN growth. What I did not know was that MAG were using my survey and sending emails to my local councillors.

I would assume/guess you will see other mails like mine. I am of the opinion this is a poor way to gain support

Regards  
James Collins  


**A.27** A prominent UDC councillor, representing the ruling party at UDC, is a leading advocate for approval of the Stansted Airport Planning Application. Shortly after the Planning Application was published, he sent letters to the leading local newspapers in Saffron Walden, Great Dunmow and Bishop's Stortford (for example see below) championing the Planning Application and calling for local determination by UDC. He owns an airport-related business based within the main offices at Stansted Airport and he is listed on the UDC website as a Reserve Member of the Planning Committee.

## Stansted the goose that lays the golden egg

As a local businessman and councillor, I believe London Stansted Airport is a success story for our region. It is our biggest single site employer with more than 12,000 employees, 2,000 of whom live in Uttlesford. The airport makes a massive economic contribution of more than £1 billion per annum and offers flights to more than 190 destinations including Dubai, Boston and, from this year, New York.

Manchester Airport Group's (MAG) application to make best use of Stansted's single runway aims to raise the restriction on annual passenger numbers from 35 to 43 million, enabling Stansted to meet demand over the next decade. The airport has committed to delivering growth within the flight and environmental restrictions - they are not requesting any extra aircraft flights.

MAG has been carrying out extensive consultations within the community. and new aircraft are 50 per cent quieter than before. So unlocking further capacity will create more choice and competition for passengers, while creating more jobs.

Businesses across the UK and East of England benefit from long-haul connectivity to fast moving markets such as China, India and the USA. MAG is investing E600 million on a new arrivals building to cater for this future growth. The new college is also supporting the ambitions of our young people - we are the envy of many to have such support.

It seems pointless to have a state-of-the-art asset on our doorstep and preventing it reaching its run capacity. I have lived in areas lacking the opportunities we enjoy in Uttlesford, most regions would bite

your hand off to have a thriving local industry. With the proposed cut in council funding from Government, I believe the airport can be the goose that lays the golden egg in our community.

On SSE's specific issue about why Stansted is not being dealt with by the secretary of state, I believe Uttlesford councillors should decide the future of our airport, rather than bureaucrats in Whitehall.

Terry Farthing  
Great Sampford

**A.28** SSE has written to the Chief Executive of UDC regarding the above matters where it appears to SSE that there has been an abuse of process. At time of writing a reply is awaited.

# APPENDIX

## UDC Meeting with SSE, Council Offices, 28.7.17

[Key text highlighted in yellow]

### Present:

UDC - Roger Harborough, Dawn French, Cllr Alan Dean, Cllr Howard Rolfe (for most of the meeting)

SSE – Peter Sanders, Brian Ross, Carol Barbone (notetaker)

### Notes:

BRR: Why the rush on the application? Secretary of State can determine if nationally significant against all sorts of yardsticks including multiple local authority areas.

HR: It's a local issue – it affects the Uttlesford community. Primary reasons. 14,500 houses expectation is equal in local importance – we'd deal with this through the planning committee too as it's a planning matter. Overall member briefings will happen but the planning authority is the planning committee.

RH: It's a council function, not an executive function.

AD: In 2005/6, application was originally refused locally here, then dealt with on appeal.

HR: Which was lost. It's exactly the same situation as the last application.

BR: No it is not.

HR: Government has announced full use of the runway.

BR: The government has said it is minded to allow best use, but the policy won't be developed until next year and isn't policy yet. You asked why we would prefer national determination. Two reasons: 1) very thorough assessment (Planning Act) would take place and MAG hasn't been convincing on this to date; 2) we have been trying [unsuccessfully] to have dialogue with planning offers which has not inspired confidence. But we will wait to see the UDC response to MAG's Scoping Report.

AD: I have read the plans with their emphasis on economic and social elements, but there's no mention of the environment. Seems to be downplaying the environment which was what UDC stressed [before]. We mustn't lose sight of the environmental side.

HR: I totally agree.

RH: Scoping Report by RPS clearly confirms environmental impacts will be considered.

BR: It scopes some aspects. But applicant's letter predicts no significant environmental impacts. Why we are minded to ask for call in is that there could be conditions: 1) night flights ban; 2) long term moratorium on a second runway. MAG is talking about giving the community 'certainty'. But night flights aren't in UDC's gift, this can only be granted nationally.

HR: OK. Presumably you've had discussions with MAG on night flights?

BR: I've raised it at STACC. MAG didn't respond, but another member mentioned 'essential cargo' and DHL.

- HR: It's a very fair point. Night flights are very much beyond our control. Residents and new flight paths; more flights = more affected. We are not in direct control.
- RH: There is a consultation about concerns at present.
- AD: Claim of 44.5 mppa by 2029 is within the emerging Local Plan period.
- RH: 35 mppa. Studies about impacts of 35+ mppa not concluded so couldn't be factored into the Local Plan.
- AD: MAG are trying to get this through during concluding period of UDC Draft Local Plan so it can go to government and reopen the debate on the second runway.
- BR: There is another interpretation - we've said assess to 2040 and on climate change to 2050, with principal assessment year 2033 to coincide with Local Plan and interim year 2023. May/June 2018 – Airports Policy Statement (APS) due.
- RH: Yes.
- BR: Heathrow centrepiece [of ANPS]; policy for other airports will be swept up in the new ANPS. This might see 'minded to' on other runway capacities put aside as there are no forecasts. It's irrational also as policy needs to be reconciled under Climate Change Act and the 37.5m tonne CO2 limit by 2050, and even squeezing Heathrow into this will be fairly challenging, so difficult to reconcile climate change policy with aviation policy and leads to High Court challenge. A third issue is financeability of a third runway at Heathrow - £17.5bn (12 times the cost of Stansted). The third Heathrow runway need to earn money from day 1. Stansted is trying to get airlines in now ahead of Heathrow night flights ban altering the balance.
- HR: Well it's the wider picture and development of our district. We can only go on the information we've been given which is the application on R1 and we'd need to determine it in the usual way. I take your point on the environment, night flights and certainty long term. Will take soundings on government long term position.
- PS: Two points to make on your comment, Howard: 1) wider picture locally – only 17% of the workforce at Stansted is from Uttlesford so there *is* wider relevance; 2) you indicate 44.5 mppa may not be full capacity. It's a very artificial number which doesn't relate to the philosophy of full capacity. Andrew Cowan's statement about certainty can only mean no second runway. Condition of an unequivocal ban on second runway. [Promises] have a habit of unravelling as we've seen; e.g. Eyre and his statement that 'if any further [than 25 mppa] then not so far [i.e. no approval for it]' – so whoever takes this on will be pressing for a moratorium.
- HR: I think that's a very good point.
- AD: What is the capacity thought to be? Size of planes?
- RH: MAG can't see 44.5+ mppa before 2029.
- HR: More than a coincidence – they want to deal with it locally.
- BR: In 2007 we submitted evidence to show 'about 35 mppa' was not full capacity. Possible to go beyond because: 1) number of movements per hour (Gatwick 55 ATMs per hour) can increase capacity of runway; 2) Planes are getting larger – 2% per annum; 3) fewer empty seats. So 44.5 mppa is not the end of the road.

HR: I'm sure that's right but you can only examine what's in front of you. But we have no idea what will happen to technology etc: unpleasant passenger experience; road network; but like it or not we have an international airport in our area that services the economy.

BR: *A nationally significant* airport.

RH: Secretary of State can call in if he thinks there is a reason.

BR: Secretary of State reluctance expected, but if he's presented with arguments to indicate the application has been deliberately contrived...

RH: There is no prematurity issue.

BR: There is in terms of no policy support. If the Secretary of State didn't call in, his refusal to do so would be easy to challenge at Judicial Review.

PS: BR has described the application as deliberately contrived to get below 10 mppa.

HR: We asked why [on the numbers], they said 'local determination'.

RH: There is a control that can be imposed. MAG has the opportunity to impose a condition.

BR: MAG say approximately 44.5 so at 1.2%.

DF: In other forums there has been 42 and 43 mppa discussion.

PS: Common sense always more than not less than when 'approximate' numbers involved.

HR: Your primary objective is environmental as I understand it.

BR: If you say 'yes' to an extra 10 mppa and extra flights. Explanation of 274,000 flights, with status quo maxed out at 247,000 flights. So 4% is thoroughly misleading.

RH: Passenger transport.

BR: This is cargo and passengers – 10,000 non-ATMs (264,000 plus 10,000).

HR: [Argues on this]. What are the primary concerns?

BR: Flights. Traffic. So what's the quid pro quo? Give people a ban on night flights so that those who suffer get some relief.

HR: But that's a consequence. Your objection – fumes, noise, surface access...?

BR: We've identified 15-16 areas including visual intrusion, ground noise, climate change, etc.

PS: It's creeping incrementalism. Eyre predicted this. The next step is a second runway.

HR: We can't deal with that. Is not a nod to a second runway.

BR: Could have a night flights ban bearing in mind that's what has been promised at Heathrow, and a moratorium along the lines of the Gatwick Agreement between West Sussex County Council and the airport.

RH: We haven't yet agreed a date for UDC Scoping Response.

BR: We'd be interested to see the timetable for the application and environmental statement.

AD: UDC needs to engage widely in the council. We haven't done so. There's been no internal discussion or even member briefing. Need to ramp up. At one time we were very active on the airport subject. We mustn't be caught napping.

PS: **The application will present an enormous demand on UDC.**

RH: Even if National Infrastructure route is taken there are still very significant demands on us. We don't get any financial income from dealing with the proposals.

HR: Important that we consider this is tooth and jowl with the local plan, Junction 8 (M11), A120 access and impacts – it's right that these are taken into consideration.

BR: As RH says, would have the possibility of this if considered at national level.

DF: Planning guidance is there. The framework is there for everyone to use. There may be moral arguments for other ways, but we have to deal with what's in front of us.

HR: We wouldn't build another house [on that basis].

BR: If dealt with as nationally significant project, would look at mitigation for those most seriously affected, rather than asking the airport to fill a 'goody bag' for Junction 8, etc., or for affordable housing. It has been put to us that UDC focus is on a 'goody bag'.

HR: Sounds like a bribe.

BR: Via a section 106 agreement.

HR: "The decision would be made on planning grounds and thereafter would be a sizeable contribution because it's a sizeable application."

RH: We've got to put a lid on this.

AD: Brian Perkins – asked Members if we wanted to support or oppose.

DF: We are in different times and will strongly refute goody bag suggestion.

RH: MAG contribution needs to reflect impacts – there is scope for community compensation of appropriate scale and nature.

BR: No-one is talking about bribes, but 15 to 25 mppa came with contributions to affordable housing and funding for good causes. The point is that these do not directly benefit those most affected by the additional passengers and flights.

RH: But government talked about community fund for mitigation where you can't directly solve impacts.

BR: It may be more achievable nationally than locally.

RH: I accept that. We need to look back.

HR: We've covered important points today. Need to reflect on your points.

PS (to DF): You said things are different now. How?

DF: We have different members and officers. A different public sector approach now. Requirement of openness and transparency. Judicial Reviews are a regular occurrence. But has heightened public sector's focus on due process etc. So if section 106 conditions in the past weren't transparent then that's not how it's done now. Planning process is important – reputation around standards of probity – happens every day on all applications and [we're] not prepared for it to be tarnished.

AD: Needs to be discussed internally as there are new members [who are unfamiliar with the issues].

HR: That's why I said have a Members' Briefing.

DF: This is not about the airport but about planning.

BR: But people are asking why the airport is so keen that the application is determined by UDC.

*HR leaves meeting for Great Chesterford*

AD: Dawkins – fact versus emotion. Emotion will come to the surface without any doubt. Aware that certain people are talking to the airport management and offering to sort out.

DF: Very emotive and sensitive subject and I respect that. MAG and Council consultation will be important.

PS: Tendentious.

AD: People are not aware.

BR: BAA were far more professional in their approach than MAG whose approach is a very bad example.

DF: What's your concern, what's behind it?

BR: MAG are concerned that they'll be frozen out and that next year the government will not want compromise of Heathrow plans, so will impose a delay on any increase beyond 35 mppa so Heathrow isn't compromised.

DF: Determination so close to the emergence of policy - wouldn't they call in?

RH: Secretary of State could call in at any time.

DF: Strikes me as a high risk application for MAG.

BR: Eventually will probably get approval if dealt with nationally though approval may defer cap raising and be subject to more meaningful conditions than could be set by UDC. But we are all guessing.

DF: What strikes me is the certainty – uncertainty.

PS: Finality needed.

RH: Growing concern of congestion on highway and rail, needs to be certainty on ££ to address and having a scheme.

BR: Junction 8 funding aids housing?

RH: Pooling value from uplift in resource.

BR: Doesn't it work the other way around – M11 can't cope so UDC has to refuse?

RH: But that doesn't progress government's economic growth strategy.

DF: If growth doesn't progress at Stansted their financial contribution [is lowered].

BR: Air Transport White Paper policy – didn't happen, mainly because of unpredictability. As at today for more uncertainty. Political/government, Brexit and Open Skies, next terrorist threat, oil price, climate change → extrapolation can often prove completely wrong.

DF: I understand but because it's so difficult to forecast in any respect, this approach may be incrementalist but we're trying to get certainty over chunks.

BR: Eleven years ago the planning committee rejected G1 against the advice of its officers. We're not getting anything like the same message now, only getting the message to determine in favour.

DF: Only minded to determine locally.

BR: Two other things [I want to raise]: homeowner compensation is now happening – has UDC put in a claim?

RH: No.

BR: You should take advice as UDC did in the 1990s on the devaluation of the property then. UDC still owns houses and where they can be sold off, UDC can claim. The second point is that three or four years ago, PS and I met HR with Andrew Taylor to discuss the Local Plan and Stansted North Side redevelopment making it open to all comers, against prevailing policy. The question was ‘can we solve this’ and we said carve it out of the airport boundary. We agreed that it was sensible for redevelopment rather than greenfield elsewhere. Everyone was happy with the idea. But it hasn’t been done.

RH: I’ve been having a dialogue with the planning team. I am sensitive to it. Think it is presentational. Given site adjacent to the airport – is it in boundary or not is a question of how it is shown in the plan.

BR: It is shown in boundary (with permitted rights). Andrew Taylor confirmed he would remove it. You haven’t kept your word. This is disappointing.