



Uttlesford District Council

Chief Executive: Dawn French

SUPPLEMENTARY PACK

Extraordinary Council Meeting

Date: Thursday, 25th April, 2019
Time: 7.30 pm
Venue: Council Chamber - Council Offices, London Road, Saffron Walden, CB11 4ER

Chairman: Councillor L Wells

Members: Councillors K Artus, H Asker, G Barker (Vice-Chair), S Barker, R Chambers, J Davey, P Davies, A Dean, P Fairhurst, T Farthing, M Felton, M Foley, J Freeman, R Freeman, A Gerard, T Goddard, J Gordon, N Hargreaves, S Harris, E Hicks, S Howell, D Jones, T Knight, G LeCount, P Lees, M Lemon, B Light, J Lodge, J Loughlin, A Mills, S Morris, E Oliver, V Ranger, J Redfern, H Rolfe, H Ryles and G Sell

ITEMS WITH SUPPLEMENTARY INFORMATION PART 1

Open to Public and Press

2 Requisition for Extraordinary Council Meeting - Decision Notice for planning application UTT/18/0460/FUL 5 - 30

- Officer's Report - Motion to Council: Stansted Airport Planning Application and S106 Agreement.
- Note on points raised by SSE in correspondence to the Leader dated 12 April 2019.
- Schedule to the report to the Extraordinary Meeting of Council 25 April 2019. Key examples of obligations flowing from the report to Planning Committee.



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Committee:	Council	Date:	Thursday, 25 April 2019
Title:	Motion to Council: Stansted Airport Planning Application and S106 Agreement.		
Report Author:	Roger Harborough, Director - Public Services rharborough@uttlesford.gov.uk Tel: 01799 510457		

Summary

1. This report is provided to members in relation to the motion before them: To instruct the Chief Executive and fellow officers not to issue a Planning Decision Notice for planning application UTT/18/0460/FUL until the related Section 106 Legal Agreement between UDC and Stansted Airport Limited and the Planning Conditions have been scrutinized, reviewed and approved by the Council's Planning Committee after the local elections.
2. For clarity, it is important to understand the nature of the proposal before the Council meeting. This, in essence, is that officers should not rely on delegated powers but should refer the draft section 106 agreement and conditions back to the Planning Committee for consideration. The Council's Procedure Rules state that "no business other than that set out in the summons shall be considered" at an extraordinary meeting (CPR 3.2.). Members should focus on this issue. It would not be appropriate for the Council meeting to reconsider or revisit the merits of the planning application or the merits of the Planning Committee's resolution. The Scrutiny Committee is to review separately the processes by which the Council deals with major planning applications, including the Stansted application.
3. In considering the proposal and this report, it is critical that members understand the legal framework within which planning obligations may be imposed and the risks associated with going beyond the legal framework. A planning obligation can only be imposed as a reason for granting planning permission, if the obligation is
 - a. *Necessary to make the proposed development acceptable in planning terms.*
 - b. *Directly related to the proposed development.*
 - c. *Fairly and reasonably related in scale and kind to the proposed development.*
4. This is not a commercial negotiation with a developer. The Council cannot impose or accept obligations that do not meet these tests. To do so runs the risk of legal challenge, whether by way of appeal or by judicial review. Officers have taken expert external legal advice to ensure that the obligations set out in the section 106 agreement meet the statutory tests.

5. This report also sets out some wider points of principle relating to good governance for members to consider.

Recommendations

None. This report is prepared as a briefing note to inform Members' debate of the Motion before this Extraordinary Meeting of Council.

Financial Implications

6. There are no direct financial implications arising from this report.
7. There should be no financial implications if the planning permission Decision Notice containing the planning conditions endorsed at Planning Committee on 14 November is issued following the completion of the S106 Agreement that has been prepared and agreed encompassing all the necessary obligations identified fully in the report before the Planning Committee
8. There could be financial implications in the event the matter is referred back to the planning committee as the applicant may appeal for non-determination of the application.

Background Papers

9. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.

Report to Planning Committee on 14 November 2018
Deed of Planning Obligations (April 2019)

Impact

- 10.

Communication/Consultation	<p>Consultation and public speaking arrangements on the planning application by Stansted Airport Ltd reflected the level of public interest in the proposals.</p> <p>As required by law, officers undertook a range of consultations on technical matters. The Environmental Impact Assessment Regulations mandate the use of suitable expertise when needed, and officers engaged external specialist expertise in noise and air quality. Officers of the local highways authority and the expert consultants were present at the</p>
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	Planning Committee to advise Members as necessary.
Community Safety	
Equalities	
Health and Safety	
Human Rights/Legal Implications	Set out fully in this report
Sustainability	Addressed comprehensively in the Environmental and Planning Statements submitted with the planning application, and in the case officer's report, to ensure compliance with the Environmental Impact Assessment Regulations
Ward-specific impacts	
Workforce/Workplace	The local planning authority, the local highways authority and the applicant entered into a Planning Performance Agreement. Such agreements are commonplace and merely secure contributions to additional resources so that councils can deal with complex applications without unduly prejudicing normal workflow.

Situation

11. The Council has a statutory responsibility to determine planning applications in accordance with the provisions of the Town and Country Planning Act 1990. As is standard practice, it has delegated its responsibilities for determining applications to the Planning Committee and to officer level. The Council's scheme of delegation sets out matters reserved for the Planning Committee and those delegated to officer level.

12. The delegation to officers to settle the detailed drafting of a section 106 agreement is usual practice. The preparation of a section 106 agreement is a technical exercise relying on professional legal and planning expertise. However, the detailed terms of the agreement should flow from the "heads of terms" set by the resolution to grant planning consent. If it does not prove possible to agree terms reflecting the committee resolution, the matter should be referred back to Committee. In some cases, a change of circumstances might mean that officers should report back to Committee.

13. The delegation to officers serves a good purpose in ensuring that planning consents are issued in a timely manner. The consent is not treated as "issued"

when the committee resolves to grant consent, but is issued after the section 106 agreement has been completed. The delegation avoids delay in completing agreements and granting consent. This is important as delay gives rise to the risk of an appeal for non-determination. Delay will also damage the Council's performance figures, which carries a risk of reputational damage and possible central government intervention. The Council also has a service obligation to applicants and others to deal with applications in a timely and efficient manner.

14. Members should be very cautious about bringing planning matters to full Council meetings. This should only happen in very exceptional circumstances and must not be used to attempt to reopen planning decisions with which individual councillors disagree. The determination of planning applications is a complex and technical matter. For that reason, the Council delegates its planning function to the Planning Committee and to professional officers. Care is taken to ensure that members of the Planning Committee receive full training to allow them to exercise planning powers on behalf of the Council. Other members of the Council are unlikely to have received up to date training in the exercise of planning functions. In addition, for more complex cases, supplementary briefings are provided to the Planning Committee, as occurred for the application the subject of this debate.
15. A further risk is that the planning process could become politicised, bringing the Council into disrepute. Taking planning decisions on a whipped basis is likely to amount to maladministration. Planning decisions must be taken strictly on the basis of material planning considerations.
16. Members are advised to consider the wider implications of using Full Council to review the decisions of any committee or sub-committee, delegated to discharge functions on behalf of the council. As detailed, the scheme of delegation is established to enable the efficient and effective working of the council and seeks to provide a framework within which officers and members can confidently operate; it also provides residents, businesses, customers etc. clarity, transparency and some certainty on how the council makes decisions.
17. The application in this matter is a major application and it is also "EIA Development" so as to be subject to the requirements of the EIA Regulations 2017 that requires provision of an environmental impact assessment in the form of an Environmental Statement. Those Regulations also require under Regulation 4(5) that the local planning authority have available to it relevant expertise in order to assess the application. Planning officers in this district have considerable experience of Stansted Airport going back over many years. The report to the Committee on this major application set out the available expertise on further technical matters covered by the Statement.
18. The report to the Planning Committee on this major application was carefully structured on a thematic basis in order to consider each of the environmental, social and economic effects of the development and the variation to planning conditions sought. This was clearly explained at the beginning of the meeting, and Members were also requested to conduct the debate on a similarly

thematic basis for the purposes of clarity. The report considered on an effect by effect basis whether there was any adverse impact of the proposals and if so, the potential for addressing that impact by planning condition or planning obligation in the proposed terms to make the application acceptable.

20. A purpose of the Environmental Impact Assessment process is to establish whether measures may be necessary to mitigate likely significant effects resulting from the development. Such measures can be secured by planning condition or by planning obligations, as appropriate. In each section of the report there was an assessment of the possible mitigation measures. The report referred back to the submitted Environmental Statement and Planning Statement, both of which were available on the council's website for inspection. The Planning Statement included an Appendix D containing Draft S106 Heads of Terms drawing together the various measures set out in each of the topic chapters and clearly identifying the trigger points. These Heads of Terms were appended in full to the case officer's report.
21. The resolution of the Planning Committee to approve the application subject to an obligation under S106 TCPA 1990 as amended was made in the context of the application documentation in its entirety, together with the case officer's report which detailed the necessary clauses required in the planning obligation.
22. The appended Schedule identifies the relevant sections of the case officer's report dealing with each of the key mitigation measures and shows how those measures have been carried forward into the S106 Agreement.
23. The proposed planning conditions were also set out in full in the Planning Committee's report and have not been subsequently refined.
24. It was not part of the resolution of the Committee to require that any of the proposed obligations needed to be changed, strengthened or otherwise amended, nor that any additional obligations were necessary. The audio recording of the Committee proceedings confirms this.
25. Had there been any such additional requirements by the Planning Committee it would have been good practice to specify them sufficiently so as to avoid the need for a subsequent report back to the Committee, and any such additions and/or amendments would have been clearly recorded in the Minutes.
26. In accordance with both normal and best practice, since the planning obligation agreement incorporates pre-existing obligations by reference to previous agreements creating them, the opportunity was taken to review those obligations and where applicable, to adapt them to ensure they comply with legislative requirements subsequent to the date of the entering into of the original agreement. As a result all planning obligations binding upon Stansted Airport Limited are Regulation 122 CIL Regulations 2010 compliant.
27. The Agreement has been approved, signed and sealed by all the other parties: Essex County Council as the local highways authority, Citicorp Trustee Company Ltd which has a Legal Charge on the Airport Property and Stansted Airport Ltd as the proprietor of the Airport Property with freehold title.

28. The requirement under section 70(2) of the Town and Country Planning Act 1990 to have regard to material considerations subsists until the issue of the decision notice. Since a period has passed between the Committee's resolution and the conclusion of the terms of the planning obligation and the decision notice, it is necessary to consider whether there have been any new material considerations or changes in circumstances since 14 November 2018 justifying a further report to the Planning Committee before the decision notice is issued.
29. The application was considered in the context of the National Planning Policy Framework (July 2018) and the Government issued an update to its National Planning Policy Framework in February 2019, but this related to housing matters and reflected case law regarding the protection on designated environment sites.
30. The case law in question had also been taken into account in the report before the Planning Committee on the Stansted Airport proposals. Therefore the new document does not raise any material differences to the July 2018 version considered by that committee.
31. A note is also attached to this report setting out officer's comments on a number of points made by SSE in correspondence to the Leader of the Council with copies to other group leaders and the Chief Executive. These address suggestions that there may be other changes in circumstances

Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
The risk analysis is covered in the body of the report			

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.

Note on points raised by SSE in correspondence to the Leader dated 12 April 2019

1. It is known that the letter was copied to the other group leaders and to the Chief Executive, but officers are not aware if it has had a wider circulation amongst Members. This note sets out officers' comments on relevant extracts.
 - (i) "The determination of the Planning Application on 14 November 2018 was followed, five weeks later (17 December), by the publication of the Department for Transport's long awaited Green Paper, **"Aviation 2050: The future of UK aviation"**. Amongst many other policy proposals to enhance protection for local communities and the environment, the Green Paper advises of the Government's intention *"to extend the noise insulation policy threshold beyond the current 63dB LAeq 16hr contour to 60dB LAeq 16hr"*. The proposed Stansted 'SIGS' scheme, as defined in the draft S.106, is based on a 63dBA threshold and so would not meet the requirements of the new policy threshold for fully funded sound insulation. By contrast the new Heathrow scheme is based on fully funding sound insulation for homes within the 60dBA threshold and is therefore compliant."

Officer comment:

2. The Government published "Aviation 2050" in December but this is a consultation document about future policy and the consultation period on most of the questions therein has been extended and subsists at this time. Little weight can therefore be attached to its content in determining current proposals, nor would it be reasonable to defer decisions until that Government policy is settled.
3. Significant weight was attached to the government interim guidance set out in its policy paper "Beyond the Horizon Aviation Strategy: Making best use of existing runways" in the recommendation to Planning Committee. This interim guidance has not been superseded and remains unchanged.
 - (ii) "On 21 November 2018 it emerged in correspondence that the Chairman of the Planning Committee, Councillor Alan Mills – whose (additional) casting vote was the determining factor at the Committee's meeting on 14 November 2018 – had not appreciated that approving the application would result in an additional 25,180 flights per annum compared to the number of flights achievable with a 35mppa cap. He had been led to believe that it would make no difference to the number of flights. It subsequently transpired, again, in correspondence provided to SSE, that at least one other member of the Planning Committee, Councillor Lesley Wells, was under the same misapprehension at the meeting on 14 November 2018. This is not to disparage Councillors Mills and Wells for their failure to understand all the implications of approving UTT/18/0460/FUL. As at the determination date for the application, there were 2,352 documents on the file, amounting to some 13,000 pages of evidence, analysis and commentary. By comparison, for the 2006 application (UTT/0717/06/FUL) there were fewer documents (1,854) and fewer pages (circa 11,000)."

Officer comment

4. This was included in the report to the Planning Committee on 14 November. The number of air transport movements now forecast at 35 mppa is not to be treated as a limit. The Secretary of State acknowledged in his 2008 decision that 264,000 ATMs were acceptable. STAL's current proposals do not seek to relax that limit.

(iii) "There is also the doctrine of **legitimate expectation** to be considered, whereby, in delegating the negotiation of the S.106 to officers, it is reasonable to expect that the level of mitigation negotiated **would not be substantially inferior** to the comparable level of mitigation provided to communities around other major UK airports. It is also reasonable to expect that all of the matters listed in the Committee Resolution would be addressed and that the proposed mitigation would be consistent with current and emerging Government policy."

Officer comment:

5. Each application for planning permission under the Town and Country Planning Act 1990 must be determined on its own particular merits. The CIL Regulations, Regulation 122(2)(a) requires that an obligation be necessary. This was not part of the delegation arrangements by the Committee to officers to undertake a nationwide comparison of other airport mitigation measures. Comparisons between the sound insulation grant schemes or schemes for community trusts for different airports are not relevant to this application in this district.
6. The effects of air transport movements are locally fact sensitive and will also vary from airport to airport self-evidently because of the number and type of air transport movements, the limits on such movements if any including night flying restrictions imposed by Government or through the planning process and the type of aircraft, and the character of areas under departure routes and glide paths, such as the degree of urbanisation. Individual planning decisions are fact sensitive and made on their particular merits.

(iv) "The long-awaited new World Health Organisation ("WHO") Environmental Noise Guidelines, although published on 22 October 2018, were completely overlooked in the Officers' Report and so it is not surprising that, as later learned in correspondence, the Planning Committee Chairman was completely unaware of them at the time of casting his decisive vote. The materiality of the new WHO Guidelines can hardly be understated since they set significantly lower thresholds than previously applied for the avoidance of adverse health impacts from environmental noise. Their importance was recognised, even before they were published, in UDC's December 2017 Scoping Opinion, as follows:

*"In the event that the World Health Organisation ("WHO")'s new evidence on the impacts of aviation noise is published before a determination to grant planning permission, the environmental statement assessment **must incorporate** this evidence (for example, by way of supplementary assessment)." [emphasis added]*

These new WHO Guidelines for the first time contain specific thresholds for aircraft community noise impacts and have been described as a landmark in seeking to protect community health. They clearly have a material bearing on the appropriate level of mitigation to be provided to safeguard the health of the local community affected by noise from Stansted Airport. At the very least, the Planning Committee should be given an opportunity to review the implications of the new WHO Guidelines – not having previously been given that opportunity – and to consider."

Officer comment:

7. The World Health Organisation Environmental Noise Guidelines published on 22 October 2018 were a matter put to the Planning Committee in SSE's presentation to members and in the officer's report. No weight can be attached to these guidelines as they are directed at Governments in preparing national policy on airports and aviation and not to local authorities. It is notable that the Airports 2050 consultation document questions the appropriateness of these guidelines.

(v) "One of the most controversial issues considered by the Planning Committee on 14 November 2018 was the assumption made by STAL that new aircraft, said to be 50% quieter, would quickly replace existing aircraft types thereby ensuring that the overall noise impacts would be kept within 'acceptable' levels. Members questioned – but to little avail – the plausibility of the claims made for the speed of the fleet replacement programme, with detailed evidence regarding the Ryanair fleet, noting that Ryanair accounts for about 80% of Stansted's passengers. The projected noise contours were based on Ryanair replacing the majority of its present fleet (all of which are Boeing 737-800s) with the "cleaner and quieter" Boeing 737-8 Max aircraft. Even the optimists would describe the original assumptions made with regard to the speed of the Ryanair fleet replacement programme as "challenging". In the light of the ongoing problems with B737-8 Max, these assumptions are now wholly implausible, and this was such a material component of the noise and air quality projections submitted by STAL in support of its application that there is a clear case for allowing the Planning Committee an opportunity to review the implications."

Officer comment:

8. In assessing air traffic effects, the Environmental Statement supporting STAL's planning application did make assumptions about aircraft fleet mix. It also included a sensitivity test that changes to the rate of new variant aircraft of up to 10% will be insignificant. Furthermore, the air noise contour condition is itself a measure that would safeguard against greater exposure to aircraft noise than predicted should the current problem with the airworthiness and passenger confidence in Boeing 737 8 MAX aircraft have a long lasting impact on fleet

mix.

9. Other points raised about enforcement for alleged breaches of planning control have no bearing on the application considered on 14 November. The expediency of enforcement action in any particular case depends on whether any planning harm has resulted from any breaches. For reasons in the knowledge of SSE because the matter was raised at a meeting of the Stansted Airport Consultative Committee, it is unlikely that there has actually been any breach of the air transport movements and other movements limits imposed by planning condition on the 2008 planning permission.

Schedule to the report to the Extraordinary Meeting of Council 25 April 2019

Key examples of obligations flowing from the report to Planning Committee

<p>Extracts from Report to Planning Committee 14 November 2019</p>	<p>Section 106 Agreement</p>
<p>Sound Insulation Grant Scheme</p> <p>The revised and updated scheme, which can be secured by way of a s106 Legal Obligation, proposes to remove the requirement for the householder to contribute financially to the cost of insulation works; will be a three-tiered offer, to target greatest support to those who are most impacted with increased grant payments. The qualification criteria are set out in Table 7.24 (page 7-72).</p> <p>For properties in upper noise impact band, 69 and 66 dB LAeq, 16h, there will be a maximum grant of £10,000</p> <p>For properties in the middle noise impact band, 63 and 60 dB LAeq, 16h there will be a maximum grant of £8,000</p> <p>For properties in the Lower impact band: 57 dB LAeq, 16h/N65 200/ 90 dBA SEL(the SEL footprint for the noisiest aircraft operating at night (23:00 to 06:00) 600m distance/55 dB LAeq, 16h ground noise there</p>	<p>Schedule 3 Obligations by STAL with UDC</p> <p>Part 1 Noise Mitigation</p> <p>Enhanced SIGS set out in Section 2 to 5 Same maximum grants by noise impact band defined by the same criteria Provision for bespoke mitigation package for non residential properties affected</p> <p>1. Enhanced Sound Insulation Grant Scheme</p> <p>General Statement</p> <p>By way of replacement for the Existing Noise Mitigation Regime applicable to Stansted Airport, STAL will with effect from the Enhanced SIGS Commencement Date be required to comply with the provisions of this paragraph 2 of this Part 1, to the intent that STAL will be subject to the obligation (at STAL's discretion) to make payments of or to be liable for reimbursement of the costs incurred in providing sound insulation grant for an extended geographic area (increasing the number of eligible properties) to affected eligible properties; enhanced eligibility involving increased levels of rate of financial contribution by STAL to affected properties; and an area of eligibility based on additional noise metrics all as detailed in this paragraph 2.</p>

will be a maximum grant of £5,000

This revised mitigation scheme will be available to 50 properties in the upper category, 400 in the medium and 1600 in the lower categories. In addition, 5 schools, 2 healthcare facilities, 8 places of worship (7 if Ebenezer Chapel is no longer to be used as a church) and 3 community facilities will be eligible, unlike under the current scheme.

There may be practical reasons as to why SIGS may not be appropriate mitigation for an educational facility. Therefore, alternative mitigation measures may be required, which would require engagement with the relevant bodies to identify any appropriate measures. These could be secured by way of an appropriately worded condition or s106 Legal Obligation if planning permission were to be granted.

Detailed contents of the enhanced scheme

The following elements shall be included in the Enhanced Sound Insulation Grant Scheme with effect from the Enhanced SIGS Commencement Date:

(a) Revised geographic area covered

- Eligible claimants entitled to make an application under the Enhanced Sound Insulation Grant Scheme will be freehold, and where applicable leasehold, owners of properties lying within the Revised SIGS Contour Plan, that is to say the area comprising the three areas respectively tinted red, tinted yellow and tinted green within the noise contours.

(b) Eligibility (noise impact, noise contour and grant – maximum amount)

- This is as set out in Table 1 below, and applies to all Residential Properties lying within any of the three areas referred to in paragraph (a) above falling within the defined noise contours shown on the Revised SIGS Contour Plan.

Table 1

Noise Impact	Noise Contour*	Grant Maximum
Upper (tinted in red)	▪ 69 and 66dB L Aeq,16h	£10,000 Indexed per property
Middle (tinted in	▪ 63 and 60 dB L	£8,000 Indexed

		yellow)	Aeq,16h	per property
		Lower (tinted in green)	<ul style="list-style-type: none"> ▪ 57 dB Aeq,16h/N65 200 / 90 dBA SEL ▪ 600m distance/55 dB L_{Aeq,16h} ground noise 	£5,000 Indexed per property

**The reference year for the contours set out on the Revised SIGS Contour Plan is 2023.*

(c) Non-residential properties affected

In addition to the residential properties falling within the areas designated by the Revised SIGS Contour Plan, the following non-residential properties shall be eligible for a bespoke mitigation package of works or other measures as may reasonably be agreed by STAL following discussion with individual building owners and occupiers under the Enhanced Sound Insulation Grant Scheme so long as the properties remain in education, healthcare, worship or community use (as applicable):

- Schools
- Howe Green School
 - Spellbrook Primary School
 - Little Hallingbury C of E Primary School
 - The Leventhorpe School
 - Mandeville Primary School
 - Falcon House, Little Hallingbury

- Humpfrey Lodge, Thaxted

Worship

- St Giles Church Great Hallingbury
- St Mary the Virgin Church Broxted
- Ebenezer Chapel Molehill Green
- St Mary the Virgin Church Chickney
- Thaxted Baptist Church
- St Mary the Virgin Church Little Hallingbury
- Thaxted Church (St. John the Baptist) Thaxted
- Thaxted URC Church

Community

- Thaxted Anglican Church Hall
- Little Hallingbury Village Hall
- Thaxted Baptist Church Hall

The respective levels of claim of the owners of each of these properties shall be a sum as may reasonably be agreed between the property owner and STAL having regard to the specific condition and characteristics of the individual property, the practicality of carrying out noise insulation works to the property and the change in noise impact resulting from the Development.

In the event that agreement is not reached between the property owner and STAL as to the sum to be paid in respect of the cost of the noise mitigation works to a non-residential property, either the property owner or STAL may refer the matter to UDC who shall appoint an expert ("the Expert") with relevant qualifications to determine the matter. The Expert shall act as an expert and save in case of manifest error the Expert's decision shall be final and binding on the property owner and STAL. UDC's and the Expert's costs shall be payable by the property owner and STAL in such proportion as the Expert shall determine and failing such determination shall be borne by the property owner and STAL in equal shares.

General Statement with respect to the operation of the Enhanced Sound Insulation Grant Scheme

- Having regard to the planning purpose that the noise mitigation regime for Stansted Airport for those eligible to apply under the terms of the Enhanced Sound Insulation Grant Scheme shall be made available for claimants to secure measures to reduce the impact of aviation-related noise being in place early, the trigger for commencement of the Enhanced Sound Insulation Grant Scheme will occur at a point prior to the Passenger Level Trigger Date (35 mppa being exceeded). STAL operates, and will until agreed otherwise with UDC continue to operate, an annual applications-based grant scheme with a cut-off date of 31 October in each calendar year.
- The coming into operation of the Enhanced Sound Insulation Grant Scheme shall take effect from the Enhanced SIGS Commencement Date.
- Each Residential Property and non-residential property is entitled to make no more than one claim under the Enhanced Sound Insulation Grant Scheme unless otherwise agreed by STAL.

Lower noise penalty limits

- STAL shall use its Reasonable Endeavours to seek to secure the agreement of the Department for Transport of increased limits in noise penalties payable for breach of noise thresholds and off-track flying at Stansted Airport.

Noise penalty payments

- STAL shall pay to the Community Trust Fund the amount of any penalties received by STAL for breach of noise thresholds and off-track flying at Stansted Airport, such payments to be made annually prior to 31 May each year accompanied by a statement setting out details of all penalties received during the preceding 12 months.

<p>Strategic Route Network Improvements</p> <p>ECC are currently preparing to implement a major improvement to a short section of the A120 west of M11 J8 to support economic growth. These improvements are likely to be able to accommodate some of the traffic growth arising from the airport expansion beyond the current 35mppa limit. However, they are not sufficient to cater for 43mppa. Further improvements are therefore necessary to address the potentially severe impacts on the SRN at M11 J8 and at the A120 Priory Wood roundabout. A mitigation scheme was therefore submitted by the applicant which, in terms of capacity and safety should be adequate to address these impacts.</p> <p>The mitigation works relate to additional carriageway widening on key approach/exit arms to/from the M11 J8 signalised roundabout and a series of amendments to lane allocations and limited physical adjustment designed to enhance the capacity of the junction, along with the separate signalisation of the westbound entry of Priory Wood Roundabout. HE has concluded that the additional capacity achieved through these amendments provide mitigation that more than compensates for the additional traffic anticipated to arise from the proposed</p>	<p>Strategic Highways Review Part 2 Section 1 at 35 mppa trigger point</p> <p>Highways Mitigation Scheme following completion of the strategic highways review at the cost to STAL. Open to traffic before 39 mppa through put reached.</p> <p>Provision for Commuted Payment of £1,160,000 towards alternative major highways scheme for J8 in a future Roads Investment Strategy Scheme (sum calculated by Highways England’s Quantity Surveyor).</p> <p>Definitions</p> <ul style="list-style-type: none"> ▪ “Airport Bus and Coach Station Upgrade” means a scheme of works to enhance capacity and improve existing bus and coach facilities for passengers arriving at and departing from Stansted Airport, such scheme to give consideration to increased passenger circulation and waiting areas, bus waiting area(s), DDA compliant infrastructure, covered waiting areas, electronic signing and to be prepared by STAL and approved by UDC in consultation with the County Council in accordance with the provisions of this Part 2; ▪ “Commuted Payment” means the sum payable under paragraph 1.3 of this Part 2 in the event that it is determined that STAL will make a financial contribution in lieu of carrying out or paying for the Highway Mitigation Scheme, such sum to be ONE MILLION, ONE HUNDRED AND SIXTY THOUSAND POUNDS (£1,160,000) Indexed; ▪ “Highway Mitigation Scheme” means a detailed mitigation scheme as shown in principle in the Junction 8 (M11) Scheme Drawing and the Priory Wood Roundabout Drawing (or subsequent versions approved in writing by UDC in consultation with Highways England and the County Council) to adapt the Motorway Junction and Priory Wood Roundabout and associated areas of existing adopted public highway and/or land
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increase in operations of the airport.

In parallel with the ECC scheme and the airport's additional improvements, calls have been made for more extensive improvements to the M11 to be included in a future Roads Investment Strategy (RIS). The next RIS covering the period 2020 to 2025 is currently being prepared on behalf of the Department for Transport (DfT). Study work is still progressing to support the development of the next RIS, which is not due to be published by DfT until the latter part of 2019, so it is not yet known whether a scheme to upgrade the M11 or its junctions could be included. However, the possibility of such a scheme being included has had to be acknowledged in the context of this application.

In light of the above, HE are minded therefore to recommend conditions to be attached to any planning permission. These relate to delivery of the specific set of mitigation improvements to the SRN as proposed by the applicants. In proposing these conditions, HE are, however, mindful of the need to adopt a flexible approach that will enable the sensible coordination or adaptation of works for the benefit both of users of the road network and the airport, and to respond to factors that are currently unknown.

Such an approach is especially relevant to

under the control of STAL agreed between Highways England and STAL in consultation with the County Council being a series of alterations and improvements to such infrastructure arising from increased traffic and forecast traffic at the Motorway Junction and using Priory Wood Roundabout associated with growth in passenger numbers at Stansted Airport between 35 and 43 mppa;

- “Highway Mitigation Works” means the works within the existing adopted public highway required to implement the Highway Mitigation Scheme in accordance with the requirements of Highways England;
- “Junction 8 (M11) Scheme Drawing” means Drawing No Steer Drawing 23003401-SDG-HGN-100-DR-D-00104 Rev P1 comprising Annexure 4 to this Agreement;
- “Local Bus Network Development Fund” means a sum of ONE MILLION POUNDS (£1,000,000) Indexed to be made available and operated by SATF in accordance with the provisions of paragraph 4 of this Part 2;
- “Local Road Monitoring Scheme” means a scheme of traffic monitoring on the local road and STAL network to be agreed with STAL and the County Council (where monitoring is not otherwise being carried out) which shall include the matters set out in Annexure 6 for the purpose of providing information to the SATF to inform its decisions on the administration of the Local Roads Network Fund and Sustainable Transport Levy and inform decisions made by the relevant highway authority on works that are required to their respective road networks to mitigate impacts on the public highway.
- “Local Roads Network Fund” means a sum of up to EIGHT HUNDRED THOUSAND POUNDS (£800,000) Indexed to be made available to and operated by SATF (a) to cover the reasonable costs incurred for the feasibility and design and implementation of infrastructure improvements for local bus services used by passengers and employees at Stansted Airport in accordance with the provisions of paragraph 2 of this Part 2; and (b) and to cover the reasonable costs

future RIS programmes and timetables. As such, while the recommended conditions relate to specific improvement plans HE's aim is principally to achieve the required outcomes within an appropriate timetable but to allow either: (i) for the proposals to be reviewed and, if appropriate, revised to better achieve the outcomes in the light of emerging conditions; or (ii) for the possibility of the proposals to be superseded by another more extensive scheme or schemes that would achieve the same outcomes. In the event of the latter HE believe a financial contribution by the applicant equivalent to the cost of the proposed mitigation scheme would therefore be appropriate

incurred for the feasibility and design and implementation of highway improvements within a five mile radius of Stansted Airport, which include (but are not limited to) safety improvements, management/mitigation of combined impacts of future traffic, measures to improve accessibility and to assist in the enforcement of local parking controls and restrictions in order to control unauthorised parking associated with the operation of Stansted Airport; and for the avoidance of doubt the Local Roads Network Fund shall be expended within Essex only

- “Kiss and Fly” means the picking up and/or dropping off on the forecourt areas or any other area designated for set-down within the airport of passengers, by private car or taxi, for the purposes of air travel;
- “Motorway Junction” means the highway infrastructure within the boundaries of the existing adopted public highway at and in the immediate vicinity of Junction 8 of the M11 motorway;
- “Priory Wood Roundabout Drawing” means Drawing No Steer Drawing 2300340-SDG-HGN-100-DR-D-00101 Rev P1 comprising Annexure 5 to this Agreement showing a signalisation scheme for the roundabout;
- “Road Investment Strategy” means the Road Investment Strategy (RIS1) published by the Department for Transport, Highways England and (as highways monitor) the Office of Rail and Road (ORR) identifying the programme covering the period 2015 – 2020 and includes the successor project RIS2 covering the period following 2020 and any other equivalent projects designed to deliver long-term improvements in the operation of and investment in the Strategic Road Network;
- “Strategic Highways Review” means a review to be carried out jointly between STAL and Highways England (in consultation with the County Council) upon reaching the Passenger Level Trigger Date (35 mppa), or earlier if they jointly agree, to examine the most appropriate mitigation works for the Motorway Junction and for the Priory Wood Roundabout. Such Strategic Highways Review shall consider inter alia (a) outturn

traffic conditions current at the review, (b) any other relevant traffic changes forecast; and (c) the then-current Roads Investment Strategy Programme for the wider strategic road network for the county of Essex and for Trunk Roads in the vicinity as then relates to the Motorway Junction;

- “Surface Access Strategy” means the strategy (referred in the 2003 Agreement as SASAS), including subordinate modal strategies, prepared by and at the cost of STAL and overseen by SATF to increase the use of public transport by air passengers and staff at Stansted Airport as amended from time to time.;
- “Sustainable Transport Levy” means a levy operated in accordance with the existing Public Transport Levy operated pursuant to Part 4 of the Fourth Schedule to the 2003 Agreement (to be a minimum of £0.25 pence per transaction from passenger parking and staff charging at the minimum rate of £10 per annual parking permit) increased by the addition of a minimum of £0.10 pence contribution derived from every transaction resulting from visitor use of the Express Set-Down forecourt area on the south side of the Terminal Building (all amounts to be Indexed), subject to review in accordance with the provisions of paragraph 5 of this Part 2;
- “SATF” means the existing Stansted Area Transport Forum, the terms of reference for which are set out in Annexure 8;
- “Transport Forum Revised Terms of Reference” means the document so-entitled comprising Annexure 8 to this Agreement;
- “Travel Plan” means the Travel Plan adopted by STAL with respect to travel to and from Stansted Airport by staff of STAL and persons employed at Stansted Airport.

Strategic Highways Review

- Commencing within 14 days following the Passenger Level Trigger Date (35 mppa), or on such other date agreed with Highways England, STAL shall in consultation with Highways England undertake the

	<p>Strategic Highways Review in order to consider outturn traffic conditions and predicted future traffic conditions, taking account of the Road Investment Strategy programme for the Strategic Road Network in respect of the Motorway Junction.</p> <ul style="list-style-type: none"> • Following completion of the Strategic Highways Review the Highway Mitigation Scheme shall be carried out and completed at the cost of STAL (such works to be undertaken by Highways England or their agent as then agreed with STAL) so that the Highway Mitigation Works are completed and open to traffic no later than the end of the first calendar month at the point when passenger numbers at Stansted Airport are forecast to reach 39 mppa in any twelve month period. • If following completion of the Strategic Highways Review Highways England agrees, based on Highways England's objective of providing an alternative major highways scheme for the Motorway Junction in a future Roads Investment Strategy scheme, STAL shall instead of funding the Highway Mitigation Works pay the Commuted Payment to Highways England or named nominee. The Commuted Payment will be due and payable at the end of the first calendar month at the point when passenger numbers at Stansted Airport have reached a level of 39 mppa in any twelve month period, unless Highways England and STAL agree otherwise in writing.
<p>Local Roads Network</p> <p>In addition to the J8 measures as summarised above, mitigation measures would be required for the local roads to resolve issues at potential hot spots. ECC recommends a local road fund of £800,000 be set up, which could be secured by way of s106 Legal Obligation. The mechanism for</p>	<p>Local Roads Network Fund of £800,000</p> <p>Funding to be released in three stages for any scheme approved by the SATF: feasibility: detailed design and implementation</p>

allocating the funding would be the Stansted Airport Transport Forum. The Highways Working Group of the SATF takes an overview of network safety and access by road, bicycle and on foot, and is chaired by Essex County Council.

Local Roads Network Fund

Following the Implementation Date STAL hereby agrees to ring-fence and make available the amount of the Local Roads Network Fund, such fund to be administered by SATF constituted under the 2003 Agreement and the 2008 Undertaking (subject to the modified terms of its operation as provided in the Transport Forum Revised Terms of Reference referred to in paragraph 8 of this Part 2). It shall be a condition precedent to the payment by STAL to the County Council of any sums requested by the SATF that the works and / or payment, as the case may be, are for Qualifying Purposes.

Following the approval and inclusion of a scheme by the SATF in the relevant work programme, funding shall be made available to the County Council in three stages (feasibility, detailed design and implementation (as follows):

- (a) Before beginning any stage of a scheme, the County Council shall submit an estimate of costs and a timetable relating to that stage, to the SATF;
- (b) If the SATF is content that the submitted costs and timetable are reasonable, STAL shall make the funds available to the County Council in advance of the funds being required (either in one payment or in staged payments, to correspond with the terms for payment with the contractors) for that stage of the scheme; and
- (c) Where the County Council has not spent (and/or not incurred a liability to pay or reimburse) any funds received on the earliest of the following events (unless otherwise agreed by the SATF):
 - (i) within six months following the date that the stage was completed under the timetable provided by the SATF (or any agreed amendments to that timetable) pursuant to paragraph (b) above;
 - (ii) within six months following the date that the stage was

	<p>suspended (so long as it has not resumed); or</p> <p>(iii) within three months following the date that the stage was aborted, the County shall return the funds received by it to STAL to the Local Road Network Fund (unless otherwise agreed by STAL).</p> <p>The obligation to fund payments for the Local Roads Network Fund shall cease from the fifth anniversary of the 43 mppa Date. STAL shall have no further liability on and following that date with respect to the Local Roads Network Fund.</p> <p>Local Road Monitoring</p> <p>Within two (2) months of the Implementation Date, STAL shall have agreed an implementation plan for the Local Road Monitoring Scheme on roads within Stansted Airport and, subject to the agreement of the County Council, on local roads controlled by the County Council as highway authority.</p> <p>The Local Road Monitoring Scheme shall be implemented in accordance with the implementation plan for the Road Monitoring Scheme such scheme shall cease from the fifth anniversary of the 43 mppa Date.</p>
<p>Public Transport (paras 9.122 to 9.126)</p> <p>A key funding mechanism for SATF is the Transport Levy which is raised from car parking transactions at the airport (currently 25p per passenger parking transaction and £10 per annum for staff parking).</p> <p>It is proposed to extend the Transport Levy to the Kiss and Fly transactions at 10p per transaction. The combined income from the levy is predicted to be around £12m of</p>	<p>Sustainable Transport Levy</p> <p>Commencing no later than the 1st April following the Unchallenged Permission Date, the Sustainable Transport Levy will be collected by STAL and the funds made available to the SATF to finance initiatives in accordance with the Surface Access Strategy to promote the use by passengers and staff of STAL and others employed at Stansted Airport of:</p> <p>(a) modes of transport to and from Stansted Airport other than private motor vehicles, taxis and private hire vehicles, and to encourage and promote car-sharing by STAL staff and others employed at Stansted Airport in order to improve the modal</p>

funding to 2028, increasing to £20m in 2033 (assuming operations remain at 43mppa). This is in addition to the Bus Fund, a ring fenced sum of money. This was originally £2m as part of the 2008 Unilateral Undertaking.

A third source of funding for the bus network comes from the sale of airport travel cards to staff. This is predicted to increase to £1.4m per year at peak employment. This is a minimum increase assuming the same levels of staff public transport use and no future improvements. This would generate in at least £15.5m worth of revenue generated for bus operators from airport staff alone.

The Bus and Coach Working Group is proposed to be refreshed and the terms of reference updated. This would enable flexibility in the delivery of sustainable transport options given the changes in technology and approaches to delivery of services. Approximately £1m of the original Bus Fund has been spent in improving services associated with passenger growth from around 17mppa to 26mppa. The applicant is proposing to top up the ring fenced bus fund to £2m.

split in operation and to limit the impact of traffic on the surrounding highway network; and

- (b) in addition to the purposes set out in paragraph 5 of Part 4 of Fourth Schedule to the 2003 Agreement, sustainable modes of transport, including but not limited to the introduction of new technologies for all vehicles and walking and cycling schemes (including off-site provisions),

SUBJECT ALWAYS to the requirement that the Sustainable Transport Levy is applied solely to initiatives for Qualifying Purposes.

Rail-Users: discount scheme

STAL shall operate a parking discount scheme for season ticket holding rail users to and from Stansted Airport Station in general accordance with the Rail-Users discount scheme (annexed) to this Agreement as may be amended from time to time by agreement between STAL and UDC.

Transport Targets

STAL shall use Reasonable Endeavours to:

- (a) maintain a 50% public transport mode-share for non-transfer air passengers;
- (b) reach and thereafter maintain single occupancy private car use by Stansted Airport staff at 55% by the 39 mppa Date; and
- (c) to reach a passenger mode share by Kiss and Fly of:
 - (i) 20% by the 39 mppa Date; and
 - (ii) 12% by the 43 mppa Date.

and in the event that any of the targets are not met, an interim review of the Surface Access Strategy measures (in addition to the provisions of (the surface access strategy and travel plan timetable below) will be triggered.

Local Bus Network Development Fund of £1,000,000 to top up the balance of the existing Fund to £2,000,000

Local Bus Network Development Fund

Following the Passenger Level Trigger Date, STAL hereby agrees to ring-fence the Local Bus Network Development Fund such fund to be administered by the SATF constituted under the 2003 Agreement and the 2008 Undertaking subject to the modified terms of its operation. It shall be a condition precedent to the payment by STAL of any sums requested by the SATF that the works and / or payment as the case may be are for Qualifying Purposes

The obligation to fund payments for the Local Bus Network Development Fund shall cease from the fifth anniversary of the 43 mppa Date. STAL shall have no further liability on and following that date with respect to the Local Bus Network Development Fund.

Transport Forum Revised Terms of Reference: revised working arrangements

Subject to the like agreement of the Authorities, STAL agrees to participate in the SATF following the Unchallenged Permission Date in accordance with the Transport Forum Revised Terms of Reference comprising Annexure 8 to this Agreement.

Surface Access Strategy and Travel Plan – timetable revisions

Following the Unchallenged Permission Date and prior to 31 December 2019, STAL shall provide updated drafts of the Airport Surface Access Strategy and the Travel Plan to UDC and the County Council; and STAL shall be under an obligation to undertake the review and updating of each of the Airport Surface Access Strategy and the Travel Plan at five yearly intervals in the cycle 2020 / 2025 / 2030 and thereafter (unless otherwise agreed between STAL and UDC); and to provide interim updates at the mid-point within each five yearly time-period.

	<p>Airport Bus and Coach Station Improvements</p> <p>Following the Implementation Date and prior to the Passenger Level Trigger Date STAL shall commission a technical study of enhancement to capacity and passenger facility improvements for the forecast Stansted Airport passenger and employee travel growth using the bus and coach station at Stansted Airport, in order to define the Airport Bus and Coach Station Upgrade.</p> <p>Following prior consultation with SATF concerning the Airport Bus and Coach Station Upgrade, STAL shall carry out and bring into operation the works required in order to comply with such scheme before passenger numbers reach 36 mppa.</p>
<p>Other matters</p>	<p>Part 3 Skills Education and Employment Part 4 Community Trust Fund Part 5 Ecology Provisions Part 6 Surface Water Discharge Quality Monitoring</p> <p>Members can see the obligations in respect of these matters by clicking on https://www.uttlesford.gov.uk/media/9082/Draft-S106-Agreement-Stansted-Airport/pdf/20190328144140.pdf</p>

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