

THE PLANNING SYSTEM AND AIRPORTS POLICY

REPORT TO THE COMPETITION COMMISSION

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SUMMARY

This Report examines the application of planning policy to the development of additional airport capacity, particularly in the South East of England.

By reference to the recent past, the Report identifies:-

- The planning system is plan led in relation to all major land uses, including airports – policy, therefore has a critical part to play in the delivery of new airport capacity;
- Lessons to be drawn from recent experience of airport planning around the country include the recognition that there is major opposition to new airport expansion in the south east, as compared to other parts of the country.
- The absence of clear government policy has delayed airport capacity development.
- It is unsurprising, therefore, that government has decided that national policy should be specific in relation to the airport developments which it supports, in order to speed their planning process;
- The government has recognised that the same approach is necessary for other important but controversial development such a nuclear power stations or eco-towns;
- The ATWP was developed in exemplary fashion; it commands substantial respect and represents the best formula for delivering major new airport capacity in the south east within a reasonable period of time.

An alternative approach based on stimulating competitive planning proposals between different airports would be significantly less effective and, indeed, may set back very substantially attempts to achieve enhanced capacity.

SECTION 1: QUALIFICATIONS AND EXPERIENCE

- 1.1 My name is John Stuart Rhodes, I am a member of the Royal Institution of Chartered Surveyors and a Director of RPS Planning and Development Limited. I have 29 years experience as a planning consultant in the private sector.
- 1.2 RPS is the largest private sector planning consultancy in the UK. I am responsible for the running of the RPS London office, which I believe to be the largest planning consultancy in the Capital. In 2006, the London office of RPS received the award from the Mayor of London for the *Best Private Sector Planning Organisation*.
- 1.3 I am directly involved in a number of the larger projects within the office and in recent years I have been pleased to have been involved with some of the most complex and important projects in the country. These include some of the largest mixed use regeneration projects in London, such as:-
- a) **Stratford City:** A mixed use regeneration of brownfield land in East London comprising a new town centre and more than 13 million square feet of mixed use floorspace. The residential component forms the 2012 Olympic Village. Following the grant of a negotiated planning permission in 2005, Stratford City won the Royal Town Planning Institute national award for Major Urban Regeneration Project;
 - b) **Kings Cross Central:** Regeneration of former rail lands to provide a high quality new mixed use quarter for Central London; the project won the Mayor of London's award for Excellence in Planning 2007;
 - c) **Brent Cross Cricklewood:** at 15 million square feet, the largest regeneration project in London – the BXC Scheme won the Mayor of London's Planning Award for Best Conceptual Planning Project 2007;
 - d) **Greenwich Peninsular, Wembley and Southall Gas Works:** are three other current regeneration projects.

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- 1.4 I am also or have recently been closely involved with large scale infrastructure projects including:
- a) Thameslink 2000: acting as expert witness for Network Rail – approved at inquiry;
 - b) Belvedere: acting as expert witness for the largest energy from waste plant in London – approved at inquiry;
 - c) Strategic Rail Freight Interchanges: three principal current projects at Alconbury, Maidstone and Warrington which collectively comprise more than 22 million square feet of floorspace.
- 1.5 I am an experienced witness and I have given evidence at more than 100 public inquiries.
- 1.6 I act as a principal adviser to the Major Developers Group¹ which takes a close interest in the evolution of planning policy nationally. In this capacity, I am a member of the Department of Community and Local Government (DCLG) Policy Group on the Community Infrastructure Levy.
- 1.7 I have been advising BAA at Stansted since early 2004, following the publication of the Air Transport White Paper in December 2003. I advised on the submission of the application for increased use of the existing runway from 25mppa to 35mppa (the G1 project) and I acted as expert planning witness at the subsequent inquiry. I have been closely involved with the formulation of the G2 project for the development of a second runway. My office was responsible for the submission of the various planning and other applications which comprise the G2 project and I prepared the Planning Statement in support of the G2 project.
- 1.8 Prior to 2004, I was not involved with the development of BAA's airports, although I did provide advice to BAA Lynton in respect of property holdings in the vicinity of Gatwick Airport (the City Place Business Park development).

¹ The Major Developers Group – members include Argent Group, British Land, Chelsfield Partners, Great Portland Estates, Grosvenor, Hammerson, Land Securities, Quintain Estates

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- 1.9 With the benefit of this background, I believe that I am well placed to express an opinion about the nature and effect of alternative policy regimes for airport development in the south east.

SECTION 2: POLICY LED PLANNING

- 2.1 The Competition Commission has received evidence from the Planning Inspectorate (PINS) and others in relation to the operation of the planning system. In addition, the Competition Commission has itself produced a Working Paper entitled "*Airport Planning Law and Policy*".
- 2.2 As PINS explained in its response to *Questions for the Planning Inspectorate* (page 5), the UK planning system is a plan led system. The Development Plan is the start of the decision making process. Section 70(2) of the Town and Country Planning Act 1990 provides that, in dealing with a planning application, the local authority shall have regard to the provisions of the Development Plan, so far as material to the application, and to any other material considerations. The Development Plan is given added significance by Section 38(6) of the Planning and Compulsory Purchase Act 2004, which requires the determination to be in accordance with the Development Plan, unless material considerations indicate otherwise. This approach is emphasised in the government's publication *The Planning System: General Principles*, which is annexed to *PPS1: Delivering Sustainable Development*, in the following terms:-

"10. Local planning authorities must determine planning applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise. If the Development Plan contains material policies or proposals and there are no other material considerations, the application should be determined in accordance with the Development Plan. Where there are other material considerations, the Development Plan should be the starting point, and other material considerations should be taken into account in reaching a decision. One such consideration will be whether the plan policies will be relevant and up to date."

- 2.3 The requirement that planning applications should be determined in accordance with the Development Plan unless material considerations indicate otherwise was introduced by Section 54a of the Planning and Compensation Act 1991. That introduction represented a marked and deliberate shift from the previous position in which there had been a general presumption in favour of development, whether in accordance with the Development Plan or not, unless that development would cause harm to interests of acknowledged importance.
- 2.4 The operation of the planning system as a whole, therefore, is policy led and there are no aspects of land use planning which are excluded from this approach, including airports and other infrastructure. In respect of any land use, therefore, the planning system deliberately constrains the operation of the market in order to regulate the use of land in the public interest.
- 2.5 Any suggestion that airport planning should simply operate on the basis of the deliberate introduction of competition between different airports would distinguish airport planning from the national approach to any other land use category.
- 2.6 Similarly, planning seeks to balance a wide range of competing interests. In respect of each land use, it seeks only to meet maximum demand where that can be achieved consistent with meeting environmental and other policies for sustainable development. Commonly, planning operates as a constraint on the operation of the free market because the unconstrained operation of the market is perceived to generate adverse environmental consequences and not to sufficiently respect the wishes of local communities. Given the relative scarcity of land in the UK, planning must inevitably ration the supply of different land uses in order to attempt to optimise the balance between a wide range of planning issues, including the simple proposition that the countryside should ordinarily be protected for its own sake.
- 2.7 In preparing a development plan for its area, a local planning authority will need to balance competing demands for housing, employment, retail, leisure and other uses with the desire to protect the environment, protect the amenities of residents and to ensure sustainable patterns of development.

- 2.8 Against this background, it is unsurprising that development plans are generally quite specific about the developments which they support or those which they do not. Whilst regional spatial strategies (RSS) are not site specific, they are required to set out a clear spatial strategy for their area and this would include the identification of major new areas of growth or, for instance, major new infrastructure. Local Development Frameworks (LDFs) are understandably more detailed and are required to include a Proposals Map identifying areas which are allocated for development and areas which are subject to presumptions against development through countryside, Green Belt, nature conservation or other similar designations.
- 2.9 As I shall show, the approach to airport planning is, in principle, no different. If the Commission has a concern with the principle of the approach to airport planning policy, it should recognise that as a concern for the planning system as a whole.
- 2.10 The development industry has become accustomed to the operation of the planning system in this way and all of those with an interest in development of an area are encouraged by government policy to participate in the preparation of development plans, for which there are now extensive requirements for public consultation and for sustainability appraisal before strategies can be formulated, tested and approved. The publication *The Planning System: General Principles* makes clear (at para 17) that in some circumstances it may be justifiable to refuse planning permission for applications on grounds of prematurity where a plan is still to be prepared, particularly:-

"This may be appropriate where a proposed development is so substantial, or where the cumulative effect would be so significant, that granting permission could prejudice the (Development Plan) by predetermining decisions about the scale, location or phasing of new development which are being addressed in the policy in the (Development Plan).

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- 2.11 It is important when considering airport policy later in this Report to understand the pre-eminence given in the planning process to the Development Plan and the guidance that large scale developments which could prejudice the preparation of policy may be refused pending the completion of policy preparation.
- 2.12 All planning consultants advising the private sector monitor the progress of development plans and commonly advise clients to participate in that process or advise clients of the risks of not awaiting its outcome prior to launching large scale planning applications.
- 2.13 Where large scale applications are launched which are contrary to an up to date plan or for which there is insufficient support in planning policy, there is a risk not only that planning permission would be refused and that major expenditure will be wasted, but also that costs would be awarded against the applicant, in accordance with government Circular 8/93.

SECTION 3: LESSONS FROM RECENT HISTORY

3.1 The Competition Commission's *Emerging Thinking* and its draft paper on *Planning Issues and Competition in the Airports Market* make reference particularly to experience at Heathrow Terminal 5, Manchester Airport and London City Airport. BAA's position in relation to these matters is set out extensively elsewhere.

3.2 For the purposes of this Report, however, there are one or two important lessons that can be gleaned from the history of those proposals.

a) **Heathrow Terminal 5**

3.3 It is beyond dispute that there was no clear government policy support for the development of T5. The 1985 *Airports Policy Paper* (The 1985 White Paper) contains the following statement at para 5.19:-

"The Government is, therefore not prepared to make any commitment at this stage on the question of a fifth terminal at Heathrow but would keep the matter under review."

3.4 Not only did the White Paper contain no clear site specific guidance, therefore, its policies as a whole were general and it was not regarded as up to date. The Inspector's report records at para 3.1.3 an acceptance by the then Minister for Aviation that the White Paper was "*beginning to look a little yellow at the edges*" and the Inspector thought it not surprising that a number of parties challenged the efficacy of the White Paper – which was widely criticised by many as being out of date. Indeed, by the time of the inquiry, the Government had announced its intentions to prepare "*a UK airports policy looking at some thirty years ahead*" (Inspectors report para 3.1.6). In his conclusions, the Inspector warmly welcomed the Government's decision to bring forward such policies and hoped that this would ensure that future decisions on major airport development are not influenced by short-term expedience (para 34.5.31). In the summary of conclusions and recommendations, the Inspector noted that:-

"It was not the role of this inquiry to set out long-term aviation policies for the South East. This is the role of the review proposed by the Government following the decision on Terminal 5. The review is intended to provide a clear framework for airport development over the next thirty years. I warmly welcome such a framework. One of its benefits would be to simplify future inquiries into major airport development" (para 18).

3.5 As is well known, the T5 Inquiry was the longest planning inquiry in history – it sat for 525 days over 46 months. The Competition Commission's draft paper, *Planning Issues and Competition in the Airports market* (para 11) identifies that the largest number of inquiry days (123) were concerned with the economic aviation case. The same paragraph identifies that the Secretary to the Inquiry noted that a significant proportion of the time spent on the economic/aviation case focused on updating the inquiry on policy developments since the 1985 White Paper.

3.6 It is beyond any reasonable dispute that the absence of clear national policy significantly extended the timescale of the T5 Inquiry and that such absence would also have made the decision more difficult for the Inquiry Inspector and for the Secretary of State. It is apparent from the Inspector's Report, for instance, that the absence of clear policy enabled objectors to produce extensive evidence doubting the benefits of the proposal or producing alternative policy propositions of their own. Objectors also strongly criticised the White Paper for being out of date, particularly in relation to subsequent national policy statements relating to sustainability.

b) Manchester Airport

3.7 In 1995, Manchester Airport succeeded in securing planning permission following an inquiry for the development of a second runway. There is already extensive material before the Competition Commission in relation to the Manchester R2 Inquiry. For the purposes of this statement, it is appropriate to draw attention only to three matters, ie:-

- The existence of policy support for Manchester's case;
- The supportive attitude of the relevant authorities; and

- The different scale of the Manchester Airport Inquiry, compared to the T5 Inquiry.

- 3.8 By contrast with the position relating to T5, the 1985 White Paper did support development at regional airports to meet the "*maximum demand that they can attract*" (para 3.1). Similarly, by contrast to Section 5 of the White Paper which deals with the London airports (CEG para 5.2), Section 6 deals with regional airports and confirms that the Government has maintained a consistently policy of encouraging maximum use of the airports outside the London system to meet demand arising in the regions (para 6.1). Those airports were identified as having a role to play in relieving pressure on capacity at the airports in the south east (para 6.2). Unsurprisingly, the Inspector and the Secretary of State concluded that the runway proposal was consistent with government policy (Inspector's Report para 3.2.170 and the Secretary of State's Decision Letter para 6).
- 3.9 Additionally, the Inspector's report records (paras 6.1.10 onwards) that both the Regional Economic and the Regional Transport Strategies strongly supported the continued development of the airport and that the Manchester Airport Group's plans were cited in the Strategies as Schemes of Strategic Significance for the Region. The Cheshire County Structure Plan recognised the strategic importance of Manchester Airport and provided criteria against which its expansion could be considered, in the knowledge of MAG's proposals.
- 3.10 Against this background, the principal planning authorities were supportive of the growth of the airport; indeed, Manchester City Council was a direct stakeholder in the airport.
- 3.11 In November 1993, the Environment Services Committee of Cheshire County Council resolved to support the principle of the second runway development but object to the proposed Section 106 mitigation package. Further negotiation with the applicants resulted in an agreement about the mitigation package and the County Council became a direct supporter of the runway proposal.

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3.12 Contrasts between the Manchester R2 Inquiry and the T5 Inquiry are stark. At T5, BAA was faced with outright opposition from the immediate local authorities of Hillingdon and Spelthorne and from a consortium of ten other local authorities from the surrounding area. Of the fifty major parties participating in the T5 Inquiry, over ninety five percent opposed the proposal. By contrast, at Manchester 11,632 of the 14,813 representations made were in support of the development. The following table summarises some of the differences.

Inquiry	Number of Applications	Number of Representations	Number of Witnesses	Number of Documents	Number of Sitting Days
T5	38	Over 27,500	Over 700	5,500	525
R2	Unknown	14,813	180	1,800	101

3.13 The reasons for these stark differences are reasonably clear. They include, of course, the difference in the policy position between the two proposals. They also include, however, the relative attitudes to development in the South East of England, compared to the North West. Principal among the objections to the T5 development were concerns relating to the lack of need for employment, fears regarding the overheating of the economy and the congestion of the road network. By contrast, at Manchester, economic policy welcomed inward investment and the provision of additional jobs was a significant positive factor in favour of the development.

3.14 These different attitudes are apparent across many aspects of economic development, not just airport development. My own experience of strategic rail freight interchange development, for instance, tells the same story.

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- 3.15 On behalf of different clients, I am involved with promoting proposals for 4 million square feet of rail linked warehousing outside the Green Belt at Maidstone and 10 million square feet of rail linked warehousing in the Green Belt at Warrington. Neither application is yet determined but the Warrington application has now received support from the North West Development Agency and secured a place in the recent Proposed Changes to the RSS for the North West, whilst the smaller proposal at Maidstone is subject to very extensive objection and has no support from the plan making authorities.
- 3.16 Independent witnesses have confirmed to the Competition Commission the significance of these differences. The CC note of the meeting with the Planning Inspectorate held on February 1st 2008 confirms (at paragraph 8):-

"(c) however, in contrast to the London airports owned by BAA, municipally – (or quasi-municipally) owned airports were likely to face less hostility to their proposed developments. In addition, the regions outside the Greater South East were more likely to favour economic development plans for their area than were London and the South East."

- 3.17 Similarly, the evidence of the Department for Transport (*-see the Summary of Hearing 13th March 2008*) confirms (para 4) that the issues at Manchester and T5 were different and that there are greater environmental pressures in the South East.

c) London City Airport

- 3.18 The experience at London City Airport does not tell a different story. Whilst the Competition Commission has drawn attention to the fact that London City Airport was able to develop initially without specific policy support, there are a number of important factors which it is necessary to understand.

- 3.19 London City Airport is situated within the Docklands area of the Thames Gateway – indeed, it occupies a concrete platform between two docks. The collapse of London's docks business is well documented and the widespread unemployment and environmental damage caused by dereliction which the closures generated resulted in a series of government initiatives to promote regeneration. These included the establishment of the London Docklands Development Corporation (LDDC) and, subsequently, the designation of the Thames Gateway in regional policy as a priority area for regeneration. Planning policies continue to mark the Thames Gateway as a distinct corridor for planning purposes in the South East, which is the focus of concentrated funding and strategic planning in order to secure growth and regeneration. According to the 2004 Index of Multiple Deprivation, the London Borough of Newham is still the 11th most deprived borough in the country. The Thames Gateway is identified as one of four growth areas in the greater south east in the Government's Sustainable Communities Plan.
- 3.20 Against this background (and in contrast to the authorities to the west of London close to Heathrow) planning policies for the London Borough of Newham set out in the Newham UDP strongly promote economic growth. The aspiration to achieve jobs for local people is a primary objective of the UDP and of the recently published emerging draft LDF Core Strategy.
- 3.21 Against this background, support for the establishment of a major new initiative to generate growth in the docklands area was not surprising in 1985 or 1991 when planning consents were first granted. The 1985 White Paper (para 7.12) confirms that the Government considers that the development of a Stolport in the Royal group of docks in East London represents a new and imaginative concept in air travel. Continued in principle support for the growth of London City Airport remains consistent with the planning strategy for the Thames Gateway and for Newham.
- 3.22 Nevertheless, the Competition Commission should recognise the relative scale of growth that has been achieved at London City Airport. The facts are:-
1. Planning permissions granted in 1985 and 1991 permitted only the operation of 36,000 ATMs per annum and this was limited by Section 52 and Section 106 Agreements;

2. In 1998, planning permission was granted by the London Borough of Newham to allow 73,000 aircraft movements, again limited by Section 106 Agreement. The limited length of the runway means that the consented 73,000 movements permit only in the region of 2mppa;
 3. In August 2007 planning application was submitted to the London Borough of Newham to increase the level of ATMs to 120,000. Despite the generally supportive policy framework, the application has attracted substantial objection and has not yet been determined. Objectors include the Greater London Authority, adjoining boroughs and Regional Airports Limited.
- 3.23 The London City proposals for expansion are directly supported in the ATWP and London City Airport has directly advised the Competition Commission (see the note of a meeting with London City Airport on 3rd March 2008):

"7. The ATWP, which was in the airport's view a very sensible document, had attempted to fill the policy gap, largely successfully. In general, competition was enhanced by the White Paper as it has made it easier to succeed in development applications that were compatible with it. Criticism that the ATWP was too location-specific was misplaced. Had it not been location-specific, it would have been a failure. London City's circumstances and needs, for example, would not have been properly covered in a non-location specific White Paper".

- 3.24 Even with the support of the ATWP, therefore, and the broadly supportive local policy framework from which London City Airport benefits, proposals to expand the airport are far from straightforward – such is the complexity of modern planning and the importance which it attached to protecting the amenity and interests of affected communities.

d) **Policy Formulation in the South East**

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- 3.25 Against this background, it is instructive to consider the way in which planning policies would be formed in the south east in the absence of the location-specific proposals set out in the ATWP.
- 3.26 Regional strategy for the greater south east is contained in the RSSs for the South East and the East of England respectively and in the London Plan, which is the spatial strategy for the capital. Each of these documents has recently been the subject of review, ie in the era post-dating the ATWP.
- 3.27 In each case, the draft documents prepared by the regional planning authorities contained policies hostile to important components of the ATWP. In particular, the draft RSS for the East of England recognised the appropriateness of the growth of Stansted Airport but only up to the maximum use of the existing runway. Similarly, both the draft RSS for the South East and the draft London Plan alterations opposed the development of a third runway at Heathrow.
- 3.28 It was only as a result of the examination in public of those plans (and against the background that the Secretary of State has the reserve power to intervene in their final approval), that the plans were adjusted to reflect the positive support given in the ATWP to additional runways at Stansted and Heathrow. In all three cases, the panel conducting the examinations in public were obliged to recommend specific alterations to the draft plans in order to bring them in line with national policy.
- 3.29 In the absence of national policy, regional planning for the south east would not have reflected or supported the development of additional runway capacity at either Stansted or Heathrow. In these circumstances, LDFs (such as the emerging Uttlesford LDF) would not be obliged to recognise the growth of the airports and subsequent planning applications for their expansion would then be contrary to the terms of the development plan.
- 3.30 This background makes clear that location-specific government intervention is necessary to enhance the prospect of significant increments of airport capacity being approved through the planning system, particularly in the South East of England.

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3.31 This view has been confirmed directly to the Competition Commission in the evidence from the Government Office for the South East (GOSE):-

"3. ...Because the rate of expansion required for the south-east's airports was massive and immediate (because the current level of capacity was clearly inadequate), because they had different impacts from Seaports (in terms of noise, air quality and over-flying safety considerations) and because airport projects were so controversial, the ATWP was quite specific as to the location of, as well as the need for, new airport development."

e) **Comparables**

3.32 The lessons learnt from this experience are not exclusive to airport planning and it is clear that they are being applied to other areas of nationally important infrastructure. Reports commissioned by the Government from Sir Roy Eddington and Kate Barker have confirmed the importance of infrastructure to the national economy and Kate Barker's reports have sought to identify a number of ways in which the delivery of infrastructure can be secured with greater speed and certainty. The *Barker Review of Land Use Planning* (Final Report 2006) proposed the principle of National Policy Statements to provide a clear framework for decision-making. Paragraph 3.6 of the report identified that such a framework would have three principal benefits:-

- Greater certainty and reduced time spent debating need;
- Reduced time spent debating alternative locations; and
- A more joined up framework for the provision of infrastructure nationally.

3.33 This led the Barker Report to recommend the following:-

"Recommendation 10.

To improve the framework for decision-making for major infrastructure to support a range of objectives, including the timely delivery of renewable energy:

Statements of Strategic Objectives for energy, transport, waste proposals (including energy from waste) and strategic water proposals (such as new reservoirs) should be drawn up where they are not in place presently. These should, where possible, be spatially specific to give greater certainty and reduce the time taken at inquiry discussing alternative sites. Regional Spatial Strategies and local plans should reflect these national statements and indicate, in particular, where regional facilities are needed."

- 3.34 This and other recommendations are reflected in the Planning White Paper, *Planning for a Sustainable Future*, May 2007 which confirmed the Government's intention to produce National Policy Statements for key sectors to ensure that there is a clear policy framework for decisions on nationally significant infrastructure. The White Paper confirms that such statements should:-

"Be as locationally specific as appropriate, in order to provide a clear framework for investment and planning decisions. As described above, some national policy statements might, according to circumstances, be locationally specific, where National Policy Statements are more locationally specific, they would need to set out clearly how national interests and local impacts have been considered and balanced in setting the policy."

- 3.35 These proposals have been taken forward in the draft Planning Bill which is currently before Parliament. Sub-section 5 in part 2 of the draft Bill indicates the Government's intention to develop National Policy Statements and its provisions include:-

"The policy set out in a national policy statement may in particular –

(a) set out, in relation to a specified description of development, the amount, type or size of development of that description which is appropriate nationally or for a specified area;

(d) identify one or more locations as suitable (or potentially suitable) or unsuitable for a specified description of development".

3.36 Up to date examples of this approach in practice can be seen in relation to emerging strategy for both nuclear power stations and Eco-towns.

3.37 In relation to nuclear power stations, for instance, the Nuclear Power White Paper, 2008 confirms that the Government's National Policy Statement for nuclear power will be informed by a Strategic Siting Assessment (SSA) and para 3.20 of the White Paper advises:-

"We would expect the criteria and sites identified through the SSA to form a key part of the Government's National Policy Statement which covers nuclear power, which in turn will set the policy framework for planning decision on nuclear power stations by the new independent Infrastructure Planning Commission."

3.38 This issue was put beyond any reasonable doubt by the Secretary of State Hazel Blears in the debate on the Bill in the House of Commons on 25th June 2008 (Hansard column 348), as follows:-

"First, I make a commitment that the National Policy Statements that cover nuclear power stations and airport development – the two most contentious forms of development covered by the Bill – will be location-specific".

- 3.39 The intention to make policy statements location-specific is also apparent in the government's recent approach to Eco-towns. In April 2008, the Government published *Eco-towns; living a greener future* – a consultation document which advised the government's intention to promote the development of a limited number of sustainable new communities in order to set benchmarks for sustainable living and to meet the urgent need to relieve housing pressure in certain parts of the country. The consultation document identified 15 specific potential locations for new Eco-towns and explained the process of challenge, sustainability appraisal and consultation which would lead to the publication of a finalised list in a new Planning Policy Statement around the end of 2008.
- 3.40 Like airport development, nuclear power stations are inevitably controversial and proposals for Eco-towns have also proved to be controversial, attracting substantial criticism in the media and from a number of planning authorities. There are, however, three simple but important principles that can be drawn from this experience and from the experience of earlier airport inquiries:-
1. without specific and direct government policy support, large scale infrastructure proposals which are likely to be controversial with the public are unlikely to be proposed in development plans; and
 2. without such explicit policy support, such proposals would struggle and inquiries would be protracted; but
 3. where specific proposals are endorsed in up to date national policy, the prospects of securing planning permission are greatly enhanced.
- 3.41 It also follows, of course, that there will by definition be areas which are not directly supported by national policy. The prospects of building a nuclear power station or an Eco-town, for instance, in locations which are not named in national policy statements would be greatly reduced. Similarly, airport expansion is undoubtedly more difficult for airports which are not identified in the ATWP. It is clearly not possible or sensible, however, for everywhere to have policy support for the development of nuclear power stations, Eco-towns or airport expansion.

- 3.42 The fact that some locations for development may be disadvantaged by not being identified for support in the Policy Statement will be regarded as a disadvantage of this type of policy by those who do not find favour. It needs to be recognised, however, that this is not a direct consequence of the fact that some sites are identified – rather, it is a consequence of the fact that planning policy will inevitably limit the overall scale of development which it can support because of the wider planning factors which I identified earlier, ie the need to protect countryside, the need to recognise public concern about development impacts and the need to ration the use of land in an orderly way. Unfavoured sites, therefore, are disadvantaged not because the policy is locationally specific but because the amount of development has been limited. The government has made clear, however, that policies are developed through consultation. All sites have the opportunity to promote their case for inclusion – they are not excluded arbitrarily.
- 3.43 By targeting specific locations government policy maximises the prospect of planning permission being granted for those proposals which it considers are the most important or most beneficial. The consequence is that the prospect of the delivery of major increments of capacity is enhanced, rather than reduced.

SECTION 4: THE ATWP: AN EXEMPLARY APPROACH

4.1 Against the background set out in the previous sections, this section considers the appropriateness and effectiveness of the ATWP in facilitating the expansion of aviation capacity in the UK. Having done this, it then considers the extent to which alternative policy regimes could be more or less effective.

a) Background to the ATWP

4.2 I attach as an appendix to the Statement, extracts from Sections 4 and 5 of the Stansted Generation 2 *Planning Statement*, which I prepared in March 2008 to accompany the G2 applications. The extract demonstrates in part the reliance which I placed upon the ATWP in support of the G2 proposals, ie the extent to which the ATWP is genuinely helpful in establishing a very strong base for the applications.

4.3 In addition, the appendix helps me to draw a number of important points to the attention of the Commission.

4.4 First, it is clear that the production of the ATWP was part of a deliberate and concerted effort by Government to speed the process of infrastructure delivery both generally, (see the appendix para 4.2.6) and, specifically, for airports (para 4.2.9). Those and other paragraphs explain how the ATWP helps to reduce debate at planning inquiries by settling a number of issues as clear Government policy. Another specific advantage is explained in the ATWP itself (see para 5.3.3) which identifies that part of its purpose is to:-

"take a view of the long-term demand for air travel and airport capacity, both for the country as a whole and across regions, and of the best long-term strategy to respond to that demand, rather than address each separate proposal in a piece meal and uncoordinated fashion."

4.5 The second principal point I wish to make is that the ATWP was painstakingly prepared in exemplary fashion in order that it could command genuine respect as a Statement of National Policy. The process is explained at some length at para 4.3.1-4.3.6. As para 4.3.4 explained, when the ATWP was challenged in the courts, the judge's conclusions included the following:-

"To the best of my knowledge, the scale of SERAS and the extent of the consultation exercise are unprecedented in the planning field."

4.6 Thirdly, para 4.5 onwards explains the status of the ATWP as the statement of up to date Government Policy on airport proposals.

4.7 Finally, it is important to understand that the ATWP policies were formulated following detailed environmental review so that the Government was able to arrive at balanced conclusions in respect of the potential for different airports to expand (see paras 5.1.3, 5.2.4-8 and 5.4.2).

4.8 This, therefore, does not represented an unconsidered blanket support for any airport expansion proposal. It is much more serious than that and, as a result, its conclusions attract far greater credit and strength. Those proposals which are specifically supported can move forward confidently through the planning process against the background of the quality of the ATWP exercise and the strength of its conclusions. In particular, promoters can be sufficiently confident that planning consent is likely to be granted, that they should be willing to invest the very substantial sums in undertaking the detailed planning application process. At G2, therefore, it has been possible to identify that very many of the objections raised to the applications related to matters which have already been taken into account by Government in the formulation of policy. It is not difficult to see how this can speed the inquiry process and lead to much greater certainty of its outcome.

- 4.9 One consequence of this approach is that the ATWP does not seek to meet unconstrained demand. This much is clear from paras 4.10 and 4.11 of the Air Transport Progress Report. Para 4.10 explains that overall demand is forecast to grow to 490mppa at UK airports by 2030. Para 4.11 explains, however:-

"However, the additional airport development supported in the White Paper would not be sufficient to support all of this unconstrained demand. After accounting for future UK airport capacity constraints outlined in the White Paper, national air travel demand is forecast to grow under the central case to 465 million in 2030."

- 4.10 Whilst the national policy does not seek to meet or even exceed forecast demand, it reflects a considered view following considerable consultation to the effect that the expansion of certain airports beyond the level supported would create an unacceptable imbalance between environmental effects and economic benefits.
- 4.11 As explained earlier, few policies seek to meet unconstrained demand for any land use. The ATWP is clear in its assessment of the national economic benefits of airport expansion but has found following detailed assessments that there are some environmental constraints which are so significant that they mean that full demand can probably not be met. It is part of the credibility of the ATWP that it is ownership blind, ie its conclusions were based on an objective assessment of environmental constraints and the economic benefits of different expansion options, irrespective of ownership. This much has been confirmed to the CC by the DfT (see Summary of Evidence 13th March 2008 para 6).
- 4.12 One other feature of the ATWP is that it is, in some respects, reasonably specific about the precise nature of development which is supported at a particular airport and it is also clear about the sequence in which airport development is supported, particularly in the south east. Some may regard this as overly prescriptive but there are a number of reasons why it represents a sensible approach, including:-

- a) It makes sense to promote a sequence of development, rather than to encourage all airport proposals to come forward at the same time. A number of contemporary proposals would inevitably generate calls for combined public inquiries and to enhance the prospect that a choice needs to be taken between the different proposals;
- b) As the ATWP explains the development of the third runway at Heathrow is inevitably delayed for environmental reasons;
- c) If the ATWP were to favour, for instance, either Heathrow or Gatwick for the development of the next runway after Stansted, uncertainty would be created for both airports and the communities in which they are located. The planning case for each would be reduced because of the legitimacy of objections that one development is not necessary because the other development could be undertaken instead or first. The outcome would be confusion and a lack of certainty; decision making would be made more difficult;
- d) Equally, it is legitimate for the ATWP to specify, for instance, that a wide spaced option is likely to be preferred at a particular airport. Such a level of prescription has the following advantages;
- It identifies the importance which government attaches to capacity gains;
 - It creates greater certainty for the planning inquiry that the normally larger impacts of wide spaced runway development are likely to be acceptable;
 - It inevitably reduces the length of the inquiry because it reduces the need for alternatives to be discussed;
- It creates greater certainty for affected communities which may be subject to blight etc.
- e) The airlines, of course, were fully able to participate as consultees in the preparation of the draft ATWP and the published SERAS documents make clear that issues relating to cost, viability and operational suitability were balanced with other issues such as environmental effects and capacity gains. Given the depth of the SERAS exercise, there is every reason why policy can legitimately be so specific;

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- f) Again, the consequence is an increased prospect of delivering capacity as close as possible to when it is needed.

b) Alternative Policy Options

4.13 The ATWP sets out a considered approach to the development of additional airport capacity, particularly in the south east. Part of its deliberate intention is to bring certainty to airport operators/airlines, the public who live around different airports and to infrastructure providers who need to direct the development of their investment plans towards areas of particular growth. The clarity of the ATWP also means that key strategic issues relating to forecasting, the need for a particular airport expansion and the benefits of airport expansion can claim to be "settled". This much is confirmed in the evidence provided to the CC by PINS which confirms:-

- The absence of a clear locational policy would clearly have made any planning inquiry far more wide ranging and long running (Para 11); and
- It is very rare for alternative options at other airports to be a material consideration given the locational specificity of the ATWP (Para 9).

4.14 It should be beyond any reasonable doubt, therefore, that the clarity of the ATWP will facilitate the (relatively) speedy determination of applications that are supported by the ATWP. In this context, objectors who seek either to deny the need or to advance alternatives are handicapped by the clarity of the ATWP.

4.15 It is relevant to consider the planning position in an alternative scenario. For instance, it may be argued that Government policies should encourage all airport expansion equally and encourage competition between airports to secure capacity. If the objective of policy includes the delivery of additional capacity, it is unlikely that any expert planning commentator would regard these alternative scenarios as attractive for a number of reasons.

4.16 The absence of specific policy is commonly regarded as one of the principal reasons for the delay in delivering additional capacity in the south east in recent years. This much is confirmed in the evidence given by DfT to the CC (see Summary 13th March 2008) including:-

- Delays have been caused more by the planning process and lack of clear Government policy prior to the publication of the ATWP (Para 2);

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- BAA would have found it very difficult to build a third runway before Government policy had evolved to support it (Para 4); and
- Clear support was needed if developments were to progress (Para 6 and 7).

4.17 In a scenario where planning policy did exist but encouraged competition between airports (eg a runway race) there would be a number of adverse consequences including:-

1. No airport operator could approach the submission of their own planning application with any confidence that they would necessarily be supported by Government – that lack of confidence would be likely to result in lower investment in the quality of the application process or a reluctance to proceed at all;
2. Residents living close to the various potential candidate airports would suffer years of uncertainty, ie they would not know whether their own airport was likely to expand or not;
3. Regional and local plans would not be able to be prepared with the confidence to plan for the necessary employment and housing land implications of airport expansion;
4. No specific regional or local plan would be obliged to incorporate policies to support individual airport projects. For example, the Regional Spatial Strategy for the East of England would not necessarily contain policies for a second runway at Stansted, if the policy encouragement was general rather than specific. The significant consequence of this (apart from the points set out above) is that an application for a second runway at Stansted would not benefit from the presumption in favour of development for developments which are supported by policies of the development plan;
5. Major statutory providers such as the Highways Agency, Network Rail etc would be reluctant to develop co-ordinated plans for the expansion of individual airports and unable to develop their own investment strategy with any confidence;

6. Such a policy approach would not legitimise any specific airport development and planning inquiries would necessarily become more uncertain. There would also be a significant likelihood that joint planning inquiries would need to be held between competing proposals so that their relative merits could be considered. This would inevitably lengthen considerably the inquiry process because:-
- i. It would at least double the number of participants at the inquiry;
 - ii. Competing proposers would be likely to cross examine each other so that the airport operator's case would be not only positive in respect of its own proposals but would be likely to be destructive of the competitive proposal;
 - iii. Objectors would play one airport off against another;
 - iv. Planning applications and environmental statements would be more complex. It would be more difficult to forecast with any certainty the throughput of an airport proposal, for example, because there would be no certainty about which other airports would be approved. Environmental impact would, therefore, be less certain and any planning decisions would be at greater risk from challenge.
- 4.18 Even if competing operators did not turn up at competitor's planning inquiries, objectors would be expected to argue that alternative expansion could be provided at other airports – thereby seeking to undermine the need for any particular airport project. As PINS has advised (see above) this would introduce the legitimacy of alternatives which could potentially add very substantial length and complexity to any individual planning inquiry.

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4.19 All of the matters set out above are inevitable consequences of moving towards a policy of generalised, rather than specific support. Other consequences are possible, including the prospect of negative or destructive tactics if airport operators are set against each other in this way, competing for the same capacity. BAA has provided evidence of operators objecting to each others planning applications (BAA/CC 2008/566) but the potential for negative tactics to become more extreme would be enhanced in the situation where a runway race was positively encouraged. Potential tactics could include:-

- Gaining planning consent but not undertaking the investment – in these circumstances, the existence of the consent becomes a commitment which reduces the need or capacity case for competitors;
- Covertly or overtly funding third party objectors, ie local groups who live in the vicinity of an airport;
- Acquiring land directly or through nominee companies adjacent to competitor airports in order thwart expansion plans;
- Seeking to influence the investment plans of infrastructure providers to ensure that rail, road or similar capacity is directed towards their own airport, rather than a competing airport, with the consequence that the competing airport would find it more difficult to obtain planning consent and to operate an expanded airport.

4.20 BAA does not claim evidence of these tactics but it does claim that a policy of deliberately setting one airport against another is more likely to generate this type of disruptive behaviour.

c) Conclusions on Policy Options

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- 4.21 For all the reasons set out above, the ATWP represents the best approach to national policy, if the objective is to facilitate capacity increases in a responsible way. It is interesting that more recent developments in national policy are tending to adopt the approach used for the ATWP, ie clear statements of national policy based on a rigorous evidence base and location-specific policies in the case of projects which are important but could in themselves be problematic if they did not benefit from explicit government support.
- 4.22 There is no credible policy scenario which could be more effective. Policies which seek to give general support, for instance, to every potential airport expansion project would lack credibility and authority and would not be effective in speeding an inquiry process or in creating greater certainty.