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FULL TRANSCRIPT (with timecode)

00:00:06:04 - 00:00:27:11

So. Good morning. Can all of those presents hear me clearly? Can you? The time is now 10:00. Welcome to this issue specific hearing in relation to the application made by Gatwick Airport Limited. We will refer to as the applicant when all the granting development consents for the Gatwick Airport Northern runway project.

00:00:28:29 - 00:01:00:08

As described in the application form. The application seeks powers to enable dual runway operations at Gatwick Airport through altering the existing northern runway, lifting restrictions on northern runways use and delivering the upgrades or additional facilities and infrastructure required to increase the passenger throughput capacity of the airport. This includes substantial upgrade works to certain surface access routes which lead to the airport. My name is Kevin Gleason.

00:01:00:10 - 00:01:15:15

I'm a town planner. A member of the Old Town Planning Institute and the lead member of the panel appointed to examine this application. I will be chairing this hearing and making some introductory comments. Can I ask my colleagues to introduce themselves, please?

00:01:17:21 - 00:01:30:14

Good morning, everybody. Uh, my name is Doctor Philip Brewer. I have a PhD in applied acoustics and am a member of the Institute of Acoustics. And I will be leading the questioning at this hearing. Thank you.

00:01:31:21 - 00:01:37:13

Good morning. My name is Helen Cassini. I'm a chartered town planner and member of the Rural Town Planning Institute.

00:01:38:27 - 00:01:43:08

Morning, everybody. My name is John Hockley Hammer, charter town planner and a member of the Royal Town Planning Institute.

00:01:44:03 - 00:01:50:07

Good morning everyone. My name is Neil Humphrey. I'm a chartered civil engineer and a fellow of the Institution of Civil Engineers.

00:01:51:18 - 00:02:29:00

Thank you. We've all been appointed by the Secretary of State to be members of this panel, and we constitute the examining authority. Okay. For this application, we'll be reporting to the Secretary of State for transport as to whether the development consent order should be made. For those here in the

venue. You may have met Miss Sarah Norris, who was Planning Inspectorate. Case manager. She is supported today by Mrs. Jennifer Savage and Mr. Elliot Booth from the case team. If you have any questions about the examination process or the technology we are using, the case team should be your first port of call.

00:02:31:01 - 00:03:07:17

Before we consider the items on the agenda, there are a few housekeeping matters we need to deal with. Firstly, can everyone please set all devices and phones to silent? There are no fire alarm tests or drills scheduled for today. So in the event of a fire alarm, please exit the room by the exits on either side and the fire assembly points is just outside the main entrance on the left hand side. Toilets are available on this floor and the ground floor, and informed car parking charges will not apply to those attending this meeting and the issues on that matter.

00:03:07:19 - 00:03:17:17

Please speak to Miss Norris in the first instance. And also when using the desk based microphones, please ensure they are positioned close enough to your face.

00:03:22:21 - 00:03:57:02

In addition to this in-person event, this hearing is taking place on the Microsoft Teams platform and is being both live streamed and recorded. For those persons joining online, you may switch cameras and microphones off if you are not participating specifically in the discussion. Should you wish to raise a question, please raise the Microsoft Teams hand function when invited. Please turn your microphone and camera on. On that note, please be advised that the chat function on Microsoft Teams is disabled and cannot be used.

00:03:59:12 - 00:04:12:18

If we have to adjourn proceedings today, including for brakes, we'll have to stop the live stream. When we recommence the meeting and restart the live stream. You will need to refresh your browser page to view the restarted stream.

00:04:15:06 - 00:04:25:28

Because the digital recordings that we make are retained and published. They form a public records that can contain personal information and to which the General Data Protection Regulation apply.

00:04:27:13 - 00:04:48:27

The planning inspector would practice is to retain and publish recordings for a period of five years from the Secretary of State's decision. Consequently, if you participate in today's hearings, it's important that you understand that you'll be live streamed and recorded and that the digital recording will be published. If you don't want your image to be recorded, you can switch off your camera.

00:04:50:26 - 00:05:09:13

The only official record of proceedings is this recording, which will be uploaded onto the Inspectorate's website as soon as possible after the hearing. Tweets, blogs and similar communications arising out of this meeting will not be accepted as evidence in the examination of this application.

00:05:11:19 - 00:05:45:09

So the hearing today will be structured discussion which the examining authority will lead. We're familiar with the documents already submitted. So when answering a question you do not need to repeat at length something that has already been submitted. When referencing the document, please give the appropriate pins examination library reference. Additionally, the first time that you use an abbreviation or an acronym, can you please give the full title as there will be people participating or observing that may not be as familiar with the documents as you are.

00:05:47:29 - 00:06:11:13

This hearing will focus on issues which we wish to address primarily to the applicant. We acknowledge that interested parties have not submitted written representations, and local authorities have not submitted their local impact reports. Matters arising from such submissions and residual matters arising from this hearing will be addressed subsequently if necessary.

00:06:13:05 - 00:06:18:21

We will look to take a break at around 1130 and will aim to finish around 1 p.m..

00:06:21:18 - 00:06:33:02

Think something. Authority has a list of those persons present today who wish to speak in relation to the various agenda items. We note everyone who gave advance notice of wishing to attend is present.

00:06:34:17 - 00:07:06:26

It's not our intention to do full introductions at this point. However, for the purpose of identification and for the benefits of those who may be watching the digital recording later, those intending to speak are asked to state your name, who you represent, and any preference on how you wish to be addressed. Please speak clearly into the microphone. Additionally, please give your name and any organization you're representing every time you're asked to speak during the hearing. So I'd now like to turn to the agenda for this hearing.

00:07:08:10 - 00:07:36:20

The agenda was published and placed on the Planning Inspectorate website on 30th of January 2024. We consider that the main item for discussion at this hearing is the applicant's approach to the assessment of aviation noise. And Doctor Brewer will say more about this under item two, and how the agenda has been modified to ensure we focus on the aspects we consider most important at this stage of the examination.

00:07:38:16 - 00:07:59:25

We'll conclude the hearing as soon as all relevant contributions have been made and all questions asked and responded to. If the discussions can't be completed or take to take longer than anticipated, it may be necessary to prioritize matters or to continue this. This hearing in this afternoon.

00:08:01:24 - 00:08:33:24

For the avoidance of doubt. At the end of the discussions on each item, we'll be asking the applicant for any final comments they have on any representations made during those discussions. Finally, this is a hearing and not an inquiry. Therefore, there will be no formal presentation of cases or cross questioning of other parties. As such, any questions that you may have for other parties need to be asked through the EXR. This approach is set out in section 94 of the Planning Act 2008.

00:08:35:07 - 00:08:43:26

So before proceedings proceeding, are there any questions at this stage about the procedural sides of today's hearing or the agenda?

00:08:47:29 - 00:08:59:00

Not seeing any indication. So move on thinking. So I'd like to then move on to agenda two on the item, and I'll pass it over to Doctor Brewer, who will take us through this next item. Thank you.

00:09:01:13 - 00:09:12:12

Thank you very much. Um, just to just to repeat that, um, the main purpose of this hearing is to examine the applicant's approach. So it's assessment of aviation noise.

00:09:13:29 - 00:09:45:16

Um, from my initial reading of the application and the reading of some of the documents referenced by the applicant. We consider this as necessary thing to do. This was also confirmed by a reading of relevant representations. And analysis of some of them. Before I get into my opening remarks and questioning, could I ask you to turn to the agenda so I can explain the changes referred to by Mr. Gleason? And if we could put that up on the screen, that that might be helpful.

00:09:50:13 - 00:09:51:15

Hoping we can do that.

00:09:54:28 - 00:09:56:16

Yes. Great. Great.

00:09:58:21 - 00:10:17:28

So, um. Yes. Fine. So fairly simply, I will use this item and items three and four. To briefly set the scene with more detail points deferred until item seven and possibly written questions. And that will depend a lot on the time and how.

00:10:18:00 - 00:10:19:00

How help.

00:10:19:02 - 00:10:20:18

Progress those.

00:10:22:16 - 00:10:33:23

Um, regarding items five and six, there will be less subdividing than indicated. On the agenda. And so I think what you'll find is that, um.

00:10:35:12 - 00:11:06:01

But that will have three quite distinct sections. Um, the scene setting which we see him for. A sharply focused middle section, which will be around five and six, and a final section seven, which will cover a number of other aspects, um, some of which may be deferred written questions, some we may do

this afternoon if people are content to carry on. Um, and possibly further hearings. So I hope that's that's clear. Um. So.

00:11:07:28 - 00:11:27:18

It's clear to us that before we can start to consider the part, aviation noise will play in the planning balance for the application. We need to be very clear that the noise effect thresholds used by the applicant are consistent with policy guidance, relevant surveys and other evidence that we consider important and relevant.

00:11:29:16 - 00:11:33:21

Please play critical parts in your assessment as indeed they would in any planning application.

00:11:35:10 - 00:12:05:25

Now I see we have a number of people wishing to speak against various items on the agenda, so I'll invite those IPPs, other IP's and other parties to comment after series of of a series of questions about a particular point that was being examined. Um, please rest assured that all IP's will have opportunity to make relevant contributions. And I would invite you to listen carefully. As that will help you frame your own representations, whether during this hearing or later on in the examination.

00:12:07:18 - 00:12:13:04

As I think we said before, questions this evening would be mainly directed towards the applicant.

00:12:14:24 - 00:12:19:10

So that's all. Fair enough. Um, we'll make a start.

00:12:21:11 - 00:12:35:00

So to kick things off, um, I'm addressing the applicant who responds, I will leave you. Leave you to decide. Um. So what does legislation have to say about noise and aviation noise in particular?

00:12:36:27 - 00:12:37:20

As Scott Linus.

00:12:37:22 - 00:12:38:07

For.

00:12:38:12 - 00:13:09:09

The applicant, sir. You will appreciate that. Uh, in response to a request made by the examining authority on controls over the existing use of the airport, we submitted some information and document as 115, which in part covered noise controls. And beyond that document existing legal controls over noise at the airport or summarized in the Noise Modeling report, section three, which is app 172.

00:13:09:11 - 00:13:19:12

Can I interrupt? I don't wish to make this, um, too many interruptions. I'm really stepping a bit further back. Um, I'm talking really general primary legislation.

00:13:20:09 - 00:13:50:22

Well, yes, I was coming on to sir, um, those documents. Uh, Seth Hoyt, uh, legal controls, including controls that are developed through primary legislation. The main piece of primary legislation to bear in mind the Civil Aviation Act of 1982. Under this important context, section 80 of that act provides the Secretary of State with powers to designate aerodromes in Great Britain for the purposes of, uh, regulating noise and vibration from aircraft using those airports.

00:13:51:03 - 00:14:25:19

And we set up significant in the context of this case, because Gatwick is a designated airport for the purposes, all provisions which are otherwise set out in the act now come to those. Therefore, recognizing the Secretary of State is the appropriate authority to set controls related to noise and vibration for airports such as Gatwick. So that's the first point. As far as, uh, the scene setting as far as legislation is concerned, the powers which are available to the Secretary of State in that context, which we would suggest are the most relevant ones for you to take into account, sir.

00:14:25:23 - 00:15:01:17

Ah, there's a range of noise controls directly relating to aircraft operations, which are set out in statutory notices and published in the Gatwick Aerodrome Aeronautical Information publication I app. Um, and as you may be aware, the Secretary of State may publish notices which impose duties on aircraft operators to secure the requirements set out in those notices. That includes noise abatement procedures. Again, the purpose of these is to limit and mitigate noise effects in connection with the taking off and landing of aircraft.

00:15:01:19 - 00:15:37:27

That's one element of controls that applies under the legislation irrespective of this scheme, and will continue to do so. Another important um element, um, is um, at departure noise, um, at limits, um, which are a responsibility of the DFT. They've been applied at Gatwick since 1959, last reduced in 2001. And that provides for fines if aircraft exceed these limits. Uh, and as we've heard in other um sessions, monies from those fines are past the Gatwick Airport Community Fund.

00:15:37:29 - 00:16:10:23

So these are measures which apply under the Civil Aviation Act 1982. There's also a separate PA under section 78, which allows the Secretary of State, if he considers appropriate, to prohibit or limits the number of occasions when aircraft may take off or land during certain um periods. And as we've set out in previous documentation, this is the pa um under which the Secretary of State has imposed at nighttime controls.

00:16:11:05 - 00:16:41:21

Um, we have movement limits which restrict a number of movements at Gatwick, both in the summer and the winter period, as well as a quota count value. And they're imposed under the section 78 of the Civil Aviation Act. There are other legal controls. Um, so there periods are to be some of the most relevant under civil aviation, um, act. Um, I can go into more detail on other on other controls, but for introductory purposes, those seem to us to be the most relevant ones.

00:16:41:23 - 00:16:51:01

The most important point to make is that, as I've emphasized previously, these are controls which apply irrespective of the project and will continue, and we'll continue to.

00:16:54:09 - 00:17:05:02

Thank you very much for. That was very interesting. Um, it's always strange, isn't it, where you ask a question and you expect a completely different answer to the one that you can't.

00:17:05:04 - 00:17:11:01

Sorry. Scotland. Um, perhaps if there was anything else you were expecting to let me know.

00:17:12:06 - 00:17:51:29

Rest assured I will. I will respond to your the to your to your answer. Yes. Thank you. Um. Because what I was going to what I thought you meant to say, um, or somebody was going to say, um, was you were going to take us to, sorry, my screen. Um, what you said in your environmental statement, chapter 14. Um, app 39, where you say, I think very succinctly, actually, very succinctly. The Civil Aviation Act of 1982 provides that no action for trespass or nuisance can be taken as long as an aircraft observes the provisions of any air navigation order, which I think is a very succinct summary of one aspect.

00:17:52:02 - 00:17:57:12

I don't think you mentioned that in your, um, in your, um, in your, um, submissions.

00:17:58:02 - 00:18:10:18

Both for the applicant. And so you're right. Um, there is a separate provision, maybe section 79, but there is a separate provision which sets within the provisions I've identified, which confirms that you're correct, sir. Thank you.

00:18:11:08 - 00:18:33:07

Thank you for that. Like that. Um, so I think probably I'm going to be perhaps seeing this less from an aspect of what controls are in place as to as to how things, um, appear from the sectors and the receiving community. Yeah. Just to sort of set that. Um, so, um.

00:18:34:24 - 00:18:54:28

Uh. So if this was any, um, normal. Normal, if there's such a thing, commercial premises and and, um. Um, and. As a neighbor, I complained to the local planning authority the noise nuisance. Um, because somebody from the applicant team explained to me what what would happen or how that would be dealt with.

00:19:10:29 - 00:19:15:12

Got minus the applicant, asked Mr. Mitchell to extend some context, please. Yeah.

00:19:15:14 - 00:19:16:27

Steve Mitchell for the applicant.

00:19:17:17 - 00:19:32:07

Um, complaints to the airport are. Can either be log through the noise and track keeping system online, or can be phoned in directly. Um and are addressed by Andy Sinclair's team. And responses generated to those complaints.

00:19:34:00 - 00:19:35:03

Thank you. Thank you for that.

00:19:35:11 - 00:20:20:27

Yes. I think that that deals with the sort of practicalities of it. But I think, as you've indicated, Sir Scott Lynas, for the applicant, there is a provision under the legislation whereby, provided that the airport is operating and within the terms of its order, um. Uh, section 77, I should say, um, by their navigation or to provide to regulate the conditions under which noise and vibration may be caused by aircraft and aerodromes. Um, and section 77 two confirms that no action shall lie in respect of nuisance by reason only of the noise and vibration caused by aircraft on an aerodrome by virtue of an air navigation order, as long as the provisions of any order duly complied with.

00:20:22:20 - 00:20:43:18

Thank you again. Um, I suppose I'm just trying to tease out a bit here. Um. Yeah. This this term provisions of any air navigation order. Now, perhaps we'll talk about the airport rather than my hypothetical commercial premises, if you like. Um. And I'm trying to I'm trying to sort of just just be clear my mind about interfaces. Um.

00:20:45:19 - 00:20:50:02

What if what if something was going on at the airport? That was other activity.

00:20:51:18 - 00:20:54:23

And I complained about that to the local authority, not to the airport.

00:21:03:10 - 00:21:05:07

That? Was that question clear enough? Can you can you.

00:21:05:23 - 00:21:21:29

Scotland for the, uh, for the applicant? Um, perhaps just try this. I suspect following the legislation, when we simply have to ask whether the activity that was being complained or felt within the scope of the er navigation, um, order uh, to then I mean.

00:21:22:01 - 00:21:41:21

Sorry, I mean, surely that's something you, as I said, interface. There will be things that go on that are under, uh, you know, I'm just going to read this, um, advisement. No action for trespass or nuisance can be taken as long as an aircraft and aircraft observed the provision of an air navigation order, then this might not be chapter and verse.

00:21:43:11 - 00:21:50:02

But there are other activities that go on at an airport, presumably that I might outside the scope of air navigation orders.



00:21:54:04 - 00:22:18:05

Um, Scott Minor for the applicant. Again, we may need to reflect on this and deal with it further in writing. The initial observation would be insofar as the airport, um, was alleged not to have the protection of section 77. Presumably, then the argument would be that it would fall within the scope of a statutory nuisance under the environmental protection legislation and the normal way.

00:22:18:07 - 00:22:20:20

I think that's where I've tried to get to.

00:22:20:27 - 00:22:35:07

Um, again, that's that's an initial reaction to your to your question, which would seem to follow from the application of section 77 and then the question of whether anything fell outside that that would seem to be the logical consequence. But we can check that, sir.

00:22:36:08 - 00:23:07:00

So, so just if I can just repeat my question, sort of I mean, it's it's my, my, my curiosity really about this is where the interface sits. Um. And at what point? The aircraft is under the navigation order. And what point? It isn't. I mean, if you're presumably. I don't want to answer your question, I don't want to answer my own question here, but if you were testing aircraft at the airport. As part of a test program. Presumably that would not be under the within the scope of a navigation order.

00:23:16:15 - 00:23:33:06

Uh, Murray Taylor for Canberra Airport Limited. I believe it is under the scope of an air navigation order. I think it is in 2016 and it comes within the 20, sorry, the section 77, I think, Scott said. Aspects of the CAA act 1982.

00:23:33:15 - 00:23:34:13

That's helpful. Thank you.

00:23:34:15 - 00:23:35:04

Yeah. Thank you.

00:23:41:02 - 00:24:20:15

So I think the point is that was rather that was rather painful to invest. But the point, um, I'm trying to make again, back to the main thrust of this point is that, um, but for people who are affected by aircraft in flight, take off, etcetera, etcetera, etcetera, um. The these protections if you like, um, that you have or the, the aviation industry has um. Would you agree? Would you agree? Wouldn't you agree that this situation has the potential to affect people's attitude? Towards noise.

00:24:21:12 - 00:24:26:11

So would you agree with it has the potential to affect people's attitude towards the noise.

00:24:32:17 - 00:24:38:08

Scotland. Applicants are just so I can check the. When you talk about effect on attitudes noisy um

00:24:40:02 - 00:24:58:22

suggesting that the the manner of legal control that's been set out in primary legislation has the potential to affect attitudes to noise, because people who may be affected are aware of the level of control that's placed, uh, or the manner in which control is exercised through legislation.

00:24:58:24 - 00:25:31:23

I think what I'm saying is that's really keeping quite simple. Um. If you're if you're living somewhere and and and you consider this noise that you're receiving is a nuisance. Yeah. And it's just a let's say it's a bus station you live next door to. Yeah. That's a sort of analogous to an airport aspect. Um, and they and they're running their buses in and out and at the depot at all times, night and day. You could, I think, reasonably complained to the local authority that was a nuisance. They would investigate and they may take action depending on what they found.

00:25:31:25 - 00:25:33:16

Is that is that would you agree with that?

00:25:34:09 - 00:26:01:18

Steve Mitchell for the applicant. Um, I would if we start talking about attitudes to aviation noise, as you know, attitudes vary dramatically between different people for lots and lots of reasons. And that is why we see an enormous range in the response that people have to a given level of aircraft noise. Um, what I would say, though, in terms of the ability to complain and service statutory nuisance, it's no different from a road.

00:26:05:24 - 00:26:20:03

Let's go. Thank you. I'm sorry. I've got to respond to that. I think that's an interesting point. An interesting point. I think the government finished my point sufficiently. Um, if you felt there was no point in complaining, would you potentially feel frustrated about that situation?

00:26:20:06 - 00:26:36:13

I can't speak for an individual's feelings, but what I do know is that, um, the airport responds to complaints. It's held to task over that response, and it reports through a series of committees on the quarterly basis about how rapidly it does respond and the quality of the responses that it gives.

00:26:37:23 - 00:26:43:23

I think I'll move on. I think I think you can see the general point of what I'm trying to make. Um.

00:26:48:06 - 00:27:01:12

I notice in your, um. I'm just making a couple of comments here. Um, the in your in your application, you do actually make reference to, um. Get just two projects. Um. And.

00:27:02:27 - 00:27:21:03

And I'm just going to have to make an observation that that in the HS2 act. That in some respects are similar things. One of the lawyers will correct me on this, I'm sure, but, um, as it supplies certain noise nuisance provisions of the EPA 1990, which the applicant meant.

00:27:22:21 - 00:27:26:11

Um, I mentioned this at this point because, um.

00:27:28:18 - 00:27:46:19

HS2 itself. Or government guidance on HS2 in terms of noise, um provides a good deal of um material. An approach to noise assessment that has been tested thoroughly against noise and planning policy, recognising the differences between rail and aviation.

00:27:48:05 - 00:27:52:13

Um, but there's a central stimulus, if you like, on construction would be somewhat simple.

00:27:57:01 - 00:28:10:24

My next question really is, um. But given the. Given the situation and the export, the regulatory environment that the airport um, operates under. Um.

00:28:13:03 - 00:28:24:27

You can see the upper motor. I'm sorry. I'm going to use the word motor applicant interchangeably here. Um, has an application. Obligation to be precautionary in its approach.

00:28:26:21 - 00:28:32:04

As was the case, for example, on HS2. That has that protection from EPA 1990.

00:28:36:16 - 00:29:12:18

Uh, Scott Leonard for the applicant. Um, major reaction to that. So we don't see that there is a line that we draw create some sort of obligation to be precautionary, uh, as a result of the protection that's given to us in relation to nuisance, um, in particular, under the Civil Aviation Act that we have just, um, mentioned, we don't see that the availability of that protection somehow imposes any particular requirements as far as assessment or, or control is concerned.

00:29:12:27 - 00:29:14:04

That's fine. That's fine. Okay.

00:29:14:06 - 00:29:17:01

Thank you. I'm clear on your position. That's fine. Yes. Um.

00:29:18:29 - 00:29:34:29

So. So I think I think I just ruled out trying to draw out two points. Then in the introduction, which was this point around. The protection that I think you do have and and how that might affect attitudes and. Um.

00:29:36:19 - 00:29:49:01

The extent that we don't agree on this or we don't, doesn't matter really. I mean, you've made your position very clear that you don't think there's any additional obligation on you to to take any further precautionary approach than that which you've already taken. Yeah.

00:29:50:00 - 00:30:40:28

It's got love for the applicant. Yes. And as far as the question about attitudes is concerned, Mr. Mitchell has touched on that already. But equally, one could suggest that that knowledge of the fact

that government has legislated on this matter and has provided for airports to be, um, immune from nuisance claims and respect of uh, activities which fall within the scope of their navigation order. Again, is something which could influence attitudes in the sense that those affected by noise may understand that government has stepped in to make provision for giving some protection to airports in this respect, and that may rather than rather than, as you suggest in your questions, have an impact, an attitude whereby someone felt there was no point in complaining because they were disturbed.

00:30:41:00 - 00:30:58:07

It could equally operate the other way, in the sense that those affected by noise could understand that government had already made provision for that had spoken on the matter, if I can put it that way. So I don't think I would accept the proposition implied by your question. That goes one way to the disadvantage somehow is affected by noise. They could equally operate in the other direction.

00:30:58:27 - 00:31:09:00

I think you've gained that's that's very helpful. You made your position quite clear that um, obviously other well, I'll invite other contributions as we, as we go. Um, so moving on. Um.

00:31:10:15 - 00:31:29:21

So what does airport policy are? Um, the airport um, national policy statement has to say about. The decision making process with respect to noise. So I'm referring to just so it's clear, um, the amps 2018 at um, at um, a 5.68.

00:31:31:08 - 00:31:34:18

Now Scotland of the applicant allows Mr. Rose to pick up that question, if I may.

00:31:40:17 - 00:31:41:19

I'm sorry. I'm.

00:31:42:22 - 00:31:47:16

John wrote for the applicant. I want to be sure that I'm answering the question, you know.

00:31:47:24 - 00:31:59:03

Um, forgive me. I'm actually going to point you to 5.68. Yes. Of that. Just, just just to get this on the record and, um, make sure we are starting from the same place.

00:31:59:05 - 00:32:30:15

Yes, we are, sir. So John Rhodes for the applicant, um, paragraph 5.68 of the NPS sets, if you like the test. Um, it's based on the three aims of the policy statement, band and test, which is also, um, set out in other NPS. So it's a helpful summary of the, um, quite a large range of aviation noise policy. As you know, there are a number of noise policy documents. Um, and it sets out, um.

00:32:31:27 - 00:32:33:20

A requirement for.

00:32:35:12 - 00:33:06:26

Three steps to avoid significant effects. Um. On, where there are adverse effects on the health and quality of life. And there are obviously a number of precedents which interpret what that means. But it's also in the context, and it's expressly termed in that paragraph to be in the context of national policy for sustainable development. I think what that takes you to, and the NPS advises us to have regard to the National policy statement for noise.

00:33:07:04 - 00:33:43:26

Um. And I'm sorry, the noise policy statement for England. Um, and that sets out a number of principles. And one is that there's a balance to be struck between the the benefits of aviation and the adverse impact of aviation policy tells us that that balance is to be struck. Um, fortunately, um, and having regard to the way in which a number of the representations have been made to this examination, it's probably helpful to say that whilst there is a range of.

00:33:44:21 - 00:34:15:10

Uh, national noise policy. We do have the benefit of an overarching aviation noise policy statement, which is relatively short and relatively recent, and summarizes, I think, what government expects from the application of national aviation noise policy. Um, and that is again, and it explains that the question of balance between the adverse effects of noise and the benefits that aviation brings to the economy is a theme of policy.

00:34:16:05 - 00:34:44:29

And that theme. I think it's apparent that it's very clear in the noise policy statement for England and in the overarching aviation noise policy statement. That doesn't mean that we're seeking all the time a reduction in the reduction in noise is desirable. That's the term used in the overarching noise policy in the overarching aviation policy statement. Um, but um.

00:34:47:21 - 00:34:49:06

Policy seeks to.

00:34:51:19 - 00:35:27:05

Um, I mean, thank you. I think that's that's sufficient in terms of response. I mean, I can, um, if I can just just to just just to keep things moving along. Um, so I think you did say there that, I mean, 5.68 is a is a restatement of the noise policy statement for England, isn't it, if you actually if you just, um, I mean, I'll just read it out just I mean, development consent should not be granted unless the Secretary of State is satisfied that proposals will meet the following aims for the effective management of controlled noise. And, as you said, within the context of government policy on sustainable development, so is balance okay? We understand that.

00:35:27:07 - 00:35:47:22

Yeah. Um, but those three aims are just to be clear. Yeah. Avoid significant adverse impacts on health and quality of life and noise. Mitigate and minimise adverse impacts on health and quality of life and noise, and where possible, contribute to improvements to health and quality of life. So we're in the same place, aren't we? Thank you.

00:35:49:25 - 00:35:50:10

Um.

00:35:52:25 - 00:36:17:00

So before I move on and you fix my main course, um, I'd like to invite some introductory comments. Um, from interested parties. Um, if you could make them relevant. To what? Perhaps what we've just been talking about. That would be very helpful. Um, so shall I talk to the, um.

00:36:18:19 - 00:36:19:08

Bautista.

00:36:20:23 - 00:37:05:03

Thank you, sir. Michael Bedford King's Council, on behalf of the Joint Local authorities. I will do my best to try to make what I say relevant to that previous discussion. But do bear with me if I slightly cover a little bit wider ground. Um, I think our starting point is, um, firstly, uh, recognition that the planning system. Which includes the controls through the um development consent regime of the Planning Act 2008, is concerned with the use and development of land in the public interest.

00:37:06:00 - 00:37:15:28

And that has a wider remit. Then, um, the regulatory regimes.

00:37:17:22 - 00:37:43:04

Or the civil legal system. That um is applicable within England and Wales. By which I mean that it is a proper purpose of the planning system. To regulate matters in the public interest. Where justified for planning reasons.

00:37:44:26 - 00:38:01:29

Even if those matters either might not be a civil nuisance or might not be a civil trespass. Or might be exempted from claims against them were they to be a civil nuisance or a civil trespass.

00:38:03:07 - 00:38:04:00

Who might not.

00:38:04:02 - 00:38:41:25

Be a statutory nuisance, which is obviously the Environmental Protection Act matters. In other words, the reach of planning provided it is serving a proper planning interest, is deeper and wider than simply those either regulatory regimes and or civil law controls. So that's a kind of an overarching point that we would want to make about matters. We don't think that actually that point of as it were principle is actually contentious between us and the applicants.

00:38:42:10 - 00:39:09:04

Um, in that, um, the applicant clearly accepts the principle that this development consent order and its associated control documents should impose further controls on aviation activities at the airport and beyond those of the existing regulatory regimes.

00:39:11:20 - 00:39:46:15

Where we, as it were, part company with the applicant is on what the nature of those controls ought to be, as opposed to the principle of there being controls. So we don't understand the applicant's position

to be well, because we're already subject to a certain regulatory regime, because we have certain freedoms from civil actions under that regulatory regime. Therefore, as it were, the law has spoken, and there is nothing for this development consent order to address in relation to noise.

00:39:46:19 - 00:40:28:06

Clearly that's not the applicant's position. As we understand it, the applicant's position is there need to be further controls. The debate is just around what the nature of those controls ought to be. There are then, if I can just draw to your attention to particular legal points that we want to just highlight, um, because they do have something of a bearing on the framework within which you consider matters. The first, uh, is just to note that there is a distinction, uh, in terms of what is the definition of night.

00:40:28:27 - 00:40:51:14

For the purposes of nighttime controls. Between policy guidance and the regulatory powers of the Secretary of State under the Civil Aviation Act. And it's simply since what you might call shoulder periods, if I can use that term.

00:40:53:22 - 00:41:08:21

So far as the policy guidance is concerned. Um, and particularly when one's looking at health effects at night, one would be looking at the full eight hour period, 2300 to 700.

00:41:10:21 - 00:41:51:12

For the purposes of the DFT nighttime noise regime, which, um, Mr. Linus correctly identified. The night time period. There is a period of 2330 to 600. So as I say, there are shoulders, if I can call them that around that. So that was one point to draw your attention, because obviously what that has implications for is that what in policy terms would be night time flights in those shoulders are not subject to the Secretary of State regulation, but we consider that they ought to be the subject of control.

00:41:51:16 - 00:42:22:17

And on our interpretation of the applicant's evidence, we think that there are increases in the number of flights in those shoulder periods. So I'll leave that point with you. That was the first legal point. It was just as a distinction between, as it were, policy and law. And then the second point is a point which we will get onto in due course in more detail when we talk about control documents. But you will be aware that the the applicant's current.

00:42:23:15 - 00:42:51:02

Uh, proposals, uh, in relation to the noise envelope and the reviews of the noise envelope. See a role for the Civil Aviation Authority as the independent reviewer. In accordance with the requirements in its schedule 11 of the draft DCO part two thereof.

00:42:53:21 - 00:43:41:29

We think that that is, uh, inappropriate as, um, an approach. And we say that for two reasons. One, you will have seen the, um, relevant representation from the Civil Aviation Authority identify that that's not one of their statutory functions, and it's a matter that they're not at the moment in agreement with the applicant on, but a point that we think needs to be explored. And we haven't seen at the

moment any clear exposition of it in the applicant's written material is that we think that the airport's noise related operating restrictions brackets England and Wales Regulations 2018.

00:43:42:15 - 00:44:34:06

Obviously we give you the full references in the post hearing submission, but that's a statutory instrument 2018 uh number 785. That specifically covers what it identifies as competent authorities. In relation to, um, noise related operated operating restrictions for airports, and it includes not only their regulation but also their monitoring. And it distinguishes distinguishes between positions where one is dealing with something on the Town and Country Planning Act, which obviously we're not, and positions where one's dealing with something under the Planning Act 2008 and a development consent order, and it makes provision in regulations four and five.

00:44:36:19 - 00:44:41:06

So that if, uh, a development consent order.

00:44:43:09 - 00:45:14:08

Imposes controls. Operating controls. Then the. Primary position. Is that the competent authority? In relation to the follow up and monitoring of operating restrictions. Is the relevant local planning authority, but the Secretary of State is given the power to override that and make himself the competent authority.

00:45:19:00 - 00:45:59:20

The way that the I say the regulatory regime is set up, the first port of call is the local authority, but with the ability of the Secretary of State to reserve that power to himself. We don't see that, um, as in any way inappropriate. It's a regulatory requirements in set out in the secondary legislation, but we don't see that as being consistent with the applicant's approach, which is to exclude the local authority from a regulatory role and seek to place that, um, obligation on the civil aviation authority, who doesn't have that as a statutory function.

00:46:00:00 - 00:46:19:23

So that is a separate, um, point of law. On your opening topics, where we've parted company from the applicant in terms of, um, the detail. If I can then just briefly turn to policy matters, which obviously you then began to rehearse with.

00:46:21:15 - 00:47:04:08

Mr. Rhodes. And obviously we, um, um, recognize, uh, the, um, airport national policy statement. And I think it's common ground, uh, that that is, um, an important and relevant consideration. It doesn't have effect, but therefore its guidance on the three tests is, we would say, relevant and important to you. Um, we, uh, consider that there is a distinction between our interpretation of the way the policy works and the applicant's interpretation of the way that policy works, that Mr.

00:47:04:10 - 00:47:39:05

Rhodes, uh, referred in his initial, um, overview not only to the NPS, but also to the overarching noise policy statement, which we obviously recognise is a later document from March 2023. But you will see that there is something of a distinction in that the applicant has taken from the overarching noise policy statement that there is no longer in the applicant's view.



00:47:40:12 - 00:47:46:15

Any policy guidance that would suggest a sharing of the benefits.

00:47:48:15 - 00:47:56:05

Of technological innovations, reducing the noise. From aviation.

00:47:57:29 - 00:48:06:24

And the environmental statement. Chapter 14 is very clear. That is not something that the environmental statement is sought to address.

00:48:11:03 - 00:48:12:10

Whereas.

00:48:13:27 - 00:48:49:17

Our interpretation of the suite of relevant policies, including the um aviation policy framework, then the airport's MPs. And then the overarching statement is that the overarching statement isn't intending to, as it were, oust that sharing of the benefits, uh, part of policy or to displace it. And therefore we think that in fashioning appropriate controls for the regulation of noise, aviation noise from this development.

00:48:50:17 - 00:49:12:09

The mechanisms that are fashioned do need to recognize that principle of sharing of the benefits. And we don't think at the moment that the applicant's present structure does that. Again, there's a lot more detail that underlies that. But that is, if you wanted an area of, as it were, high level disagreement between parties on approach, that's probably one of them.

00:49:14:10 - 00:49:15:14

Thank you, sir. Um.

00:49:16:21 - 00:49:28:22

Thank you. That's very helpful and we look forward to all of them getting submissions on those matters. Um, can I? There's nobody on line. Is there anybody in the room who would like to just make any brief comments before I actually move on?

00:49:30:22 - 00:49:33:02

Uh, yes, please. I'll take you first. Yeah.

00:49:34:19 - 00:49:37:23

Thank you. Uh, Charles Lloyd here representing campaign group Gatwick.

00:49:37:25 - 00:49:39:19

Obviously not. Um, I.

00:49:39:21 - 00:49:40:15

Just wanted to.

00:49:40:17 - 00:49:41:04

Respond.

00:49:41:06 - 00:49:42:24

To a question that you asked the.

00:49:42:26 - 00:49:43:14

Applicant a few.

00:49:43:16 - 00:49:49:19

Minutes ago, which was whether the exemption at the industry enjoys from trespass and nuisance.

00:49:49:21 - 00:49:51:01

Claims has the potential.

00:49:51:03 - 00:49:53:09

To affect attitudes to noise from.

00:49:53:11 - 00:49:54:03

Aircraft.

00:49:54:05 - 00:50:02:24

And I think the answer to that is absolutely and profoundly the fact that folk who are who consider themselves to be affected by aircraft noise.

00:50:02:26 - 00:50:03:14

Cannot.

00:50:03:16 - 00:50:04:12

Look to the law.

00:50:04:14 - 00:50:05:18

Or look to their local planning.

00:50:05:20 - 00:50:08:25

Authority has the effect of frustrating, in my view, and my.

00:50:08:27 - 00:50:09:18

Experience and.

00:50:09:20 - 00:50:18:04

Compounding the effects of aviation noise. Um, and I think that it also puts a particular responsibility on the people who are.

00:50:18:06 - 00:50:20:03

Responsible for managing.

00:50:20:05 - 00:50:20:29

And reducing.

00:50:21:01 - 00:50:21:17

That noise.

00:50:21:19 - 00:50:22:09

To take those.

00:50:22:11 - 00:50:23:05

Responsibilities.

00:50:23:07 - 00:50:26:00

Very seriously, whether those people are the.

00:50:26:02 - 00:50:26:23

Government.

00:50:26:25 - 00:50:30:24

Planning authorities who might be advising the controls or applicants.

00:50:31:02 - 00:50:36:05

Um, so I would absolutely agree that a precautionary approach should be taken in the kind of situation.

00:50:36:07 - 00:50:36:29

We find ourselves in.

00:50:37:01 - 00:50:37:16

Today.

00:50:38:27 - 00:50:42:18

Thank you. That was somebody else, wasn't there? Yes.

00:50:43:27 - 00:51:24:25

Thank you, Lisa Scott Parish Council. Um, our residents are probably impacted more directly than, uh, a significant number of other communities with regard to takeoffs and landings. And I know from speaking to members of my community, they certainly feel, um, that their voices are depressed when they have a difficulty in, um, submitting complaints about noise. At the moment, I know there's been some changes in the way that noise complaints can be submitted, and people will pull the covers over

their heads and close their eyes in depression submission, um, because they feel that their voices are curtailed.

00:51:24:27 - 00:51:43:20

And if they were to understand that there was no, um, straightforward rebuttal under the law for, um, repeated noise nuisance, then I think that would further, um, depress the amount of complaints that are put in. Thank you.

00:51:45:13 - 00:51:48:12

Thank you. Thank you for that. Um. Yes, please. Yeah.

00:51:49:18 - 00:52:18:19

Edwin's from plain wrong community noise group. Um, I think the points I'm going to make. Have probably been covered in already. But the three points you made about the amps and in the Aviation Policy Framework 2013, the statements in there about sharing benefits and reducing and mitigating noise. And certainly from our investigation through the applicant's papers, we cannot see that it's complied with either of those documents.

00:52:21:08 - 00:52:21:23

Thank.

00:52:23:01 - 00:52:23:18

Anybody else.

00:52:36:00 - 00:52:43:12

Oh, sorry. My microphone. Um. Uh. I'll repeat myself. Um, well, the applicant like to respond to some of those.

00:52:43:14 - 00:53:14:24

Thank you, Sir Scott, for the applicant. I'll deal with Mr. Bedford's points. Uh, first of all, um, I think, as you've heard, uh, in previous sessions to. At the examination. Um. It's important to bear in mind that there are other controls available to regulate noise at the airport, and our position is that the DCO process should not be used to duplicate controls that are otherwise going to continue in effect. Um, that's the first point.

00:53:14:26 - 00:53:56:01

The second point is related in the sense that Mr. Bradford referred by way of an example of this to this question, the shoulder period. And it's relevant, we say, to note that as far as nighttime restrictions are concerned, there is an ongoing consultation being carried out with the DFT. But the current proposal is to maintain the nighttime restrictions as they currently are. And as part of that consultation process, DFT has considered this issue of shoulder periods, and that's an example of how we say there are other mechanisms outside the DCO for those issues to be considered.

00:53:56:14 - 00:54:00:09

It's not for the DCU to, uh, to duplicate those.

00:54:01:24 - 00:54:35:03

Um, I'm sure we've come back to this at other stages without SA. That's our proposition. So whilst we accept entirely that we have, uh, advocated certain other controls that pursuant to the DCU, through the requirements that have been identified in in previous sessions. One must bear in mind that, uh, there are other controls have to be taken into account and assumed to operate effectively. So we probably part company with Mr. Bedford as to the proper scope of any controls that could be imposed in the DCU.

00:54:35:05 - 00:55:07:13

We don't think the suggestion that as being put forward by local authorities, uh, as appropriate as to suggest that more should be achieved through the DCU than we would say is justified. Um, his third point related to the relationship between the CAA as, uh, as an authority involved in the, in particular the noise envelope mitigation and the 2018 regulations. And I suspect this is probably better dealt with in writing, but in very short.

00:55:07:18 - 00:55:45:27

Um, summary I think the way it was put possibly applied to different things that are going on. Um, one is under the envelope, uh, the applicant will be at producing on an annual basis, uh, and monitoring information, um, which indicates how the airport is performing by reference to the envelope. And as you'll have read under the envelope will come back to this, um, letter, uh, that is essentially sent to the CAA with provision for an appeal to the secretary of state.

00:55:45:29 - 00:56:25:21

But it's also published, uh, for as published on the website. So authorities, including other local authorities can see it. We don't see that process, um, as being the process that Mr. Bedford is referring to under regulation four of the 2018, 2018 regulations. Uh, as far as we've looked at those regulations, insofar as they look at the monitoring of any operating restriction that's imposed by the Secretary of State and the competent authority, we see that as a separate mechanism, so that it's not right to look at what's going on within the noise envelope and see that that's a translation of the duties under regulation.

00:56:25:23 - 00:56:52:27

For there are two separate things going on. So it's not right, we say, to effectively put the CAA into the shoes of the competent authority under regulation, for which there are two separate processes going on to say we can deal with that more in in writing without SA. That's our position. Um, as far as policy is concerned, I think the way it was put possibly um.

00:56:54:13 - 00:57:25:03

Read too much into the application material. I think the application material recognized that when one looks at the overarching noise policy step and the words about sharing the benefits that appeared in previous policies just aren't there. And that's what that's what we stared at. As a matter of fact, we recognize there is at least an issue over, uh, the clarity of the policy as to whether or not it has been brought forward. If not, it appeared in the um, uh, aviation policy framework.

00:57:25:16 - 00:57:55:17

Um, and does not appear as a matter of fact in the latest one. But regardless of that debate, we say if one proceeds on the assumption that that policy requirement still applies, we satisfy it. And we can come on to that, particularly when looking at the noise envelope, we recognize that those words still appear in the A and PES apart from anything else, um, even if they don't appear in the UN RPS, but to some extent, you do not need to resolve that debate as a matter of policy interpretation, because we meet the test in any event.

00:57:56:04 - 00:58:14:04

Um, as far as other comments are concerned, I don't need to go over what we said before, but perhaps insofar as points were made about, um, complaints. I wonder if I could ask Mr. Sinclair for the airport just to explain what happens. As far as complaints are concerned, how the outbreak, how the airport is. If you'd find that.

00:58:14:07 - 00:58:16:17

I would rather move on. Very well, sir. That's fine.

00:58:16:23 - 00:58:25:00

Move on. Um. Um, because some of those matters that you've mentioned, we'll hopefully we'll come back to today. But if we don't, we can very well come back later.

00:58:26:03 - 00:58:28:10

Uh, Mr. Rhodes would like a point.

00:58:29:01 - 00:58:30:19

Very briefly. Mr.. Please.

00:58:31:00 - 00:59:08:02

Thank you, John Rhodes, for the applicant. So just to make two more points, if I may. In relation to the regulation of the airport, I mean, the first is to draw your attention to the APF at paragraph 3.10. Paragraph 3.10 of the APF explains, um, why the designated airports, the three designated airports are designated, and it explains that these airports remain strategically important to the UK economy, and we therefore consider it as appropriate for the government to take decisions on the right balance between noise controls and economic benefits.

00:59:09:04 - 00:59:31:07

Reconciling the local and national interests. And then the following paragraph 3.11 is concerned with other airports apart from the three designated airports. It explains that the government invites control measures to be locally agreed with the local authority. So it draws that distinction and then the amps.

00:59:32:29 - 01:00:08:29

Similarly, at paragraph 5.66, um talks about controls obviously written in the context of Heathrow airport, but talks about controls. Um, and it says the Secretary of state will expect the applicant to put forward proposals as to how these measures may be secured and enforced, including the bodies who may enforce the measures. These bodies might include the Secretary of State, local authorities and or the Civil Aviation Authority. I think it's at least apparent why we've made that suggestion within the application, that it may be the CAA that's appropriate, the appropriate body.

01:00:09:12 - 01:00:26:26

Thanks. Thank you. Scotland. I should say that Mr. Bedford mentioned the CAA. Relevant representation matters have moved on. Uh, since then, we now understand that there is broad, um, agreement between the applicant and the CAA on its rule, but that can be picked up.

01:00:29:26 - 01:00:44:11

Thank you for that point. Um, let's move on because, um, I just want to, uh, move on to actually, I want to take us back to the beginning, really, rather than we we seem to have got very, um, caught up in controls, um, at this stage. Um.

01:00:46:08 - 01:01:03:10

So this question again addressed to the applicant. Um. What does government? Government planning and noise policy have to say about the concept of a point at which noise becomes a planning issue, because adverse effects on people's health and quality of life caused by noise can be detected.

01:01:12:00 - 01:01:32:02

Steve Mitchell for the applicant. I think you're referring to the lowest observable adverse effect level. That's correct. Yes. The threshold above which we have to consider the adverse effects of noise. And providing we do that, the guidance tells us that we will assess the total effects. The total adverse effects will be captured by an assessment that uses that threshold.

01:01:33:01 - 01:02:00:24

That's fine. Okay. Thank you. Um, so just to just to be clear. Would you agree that has defined at 2.20? The explanatory note and the policy statement for England, which I think has been referred to by ourselves already. Um, the lol I guess we will use that term quite a bit. This is the level and this is just a direct quote. This is the level above which adverse effects on health and quality of life can be detected. Would you agree with that? Activision.

01:02:02:01 - 01:02:04:06

Steve Mitchell for the applicant. Certainly. Yes.

01:02:04:12 - 01:02:07:24

That's a good start, I think. What a good start there. Right. Okay.

01:02:08:29 - 01:02:09:14

Um.

01:02:10:14 - 01:02:51:15

Uh, my next question then, is it is it accurate to say that in general, in general forecast noise outcomes? I think you might have already answered this, so forgive me. Um, above the low do not have to be avoided at all costs or regarded as significantly adverse or unacceptable outcomes. Um, these will be identified by additional higher thresholds, but simply a point. Simply a point at which adverse effects caused by noise can be detected. So I've almost repeated this definition just to say that it's it is a just a it's right at the start of that kind of adverse point on, on some kind of curve of, uh, uh, response against exposure.

01:02:52:07 - 01:02:54:02

Is that the.

01:02:54:04 - 01:03:13:05

Applicant? Yes, I think it is. And I think you clarified that policy doesn't require us to mitigate fully. It requires us to minimize and mitigate as far as reasonably practicable in the context of sustainable development, until we get to higher thresholds, which I think you'll move on to in just a moment. That's fine. Okay. Thank you.

01:03:13:25 - 01:03:16:08

Skip on next question. Um.

01:03:23:18 - 01:03:30:11

I think you've answered some of these. Um. I'm going to skip a few of these, given the time. Um,

01:03:32:00 - 01:03:49:21

is it is it fair to say this this is a, um. But no question, I think that whether such. Whether such adverse effects to become apparent. In a particular context will depend on, amongst other things, the noise level in the absence of the development.

01:03:54:14 - 01:04:07:12

And Steve Mitchell for the applicant. I think when you're referring to the noise policy statement for England and the definition of the LOL, I'm not sure. It does say that there are absolute threshold levels to be used to assess a specific noise.

01:04:07:14 - 01:04:12:04

That's fine. Okay, fine. That means I can move on I think. Um.

01:04:15:18 - 01:04:23:11

So I think the sort of assessment that we've been talking about has been done in the SMEs environmental statement, chapter 14. That's correct.

01:04:24:20 - 01:04:26:29

Is that? Steve Mitchell.

01:04:27:01 - 01:04:29:05

Yes, it's an easy one. Good. Um.

01:04:32:14 - 01:05:08:13

So this is more of a sort of introduce really sort of the challenge that we have for ourselves is that. To some extent draw a contrast between the sort of the green field. Um. Site or development, and the proposed development, which is an expansion rather than a greenfield project. The kinds of question we need to answer would include, for example, how many people previously unaffected become affected or adversely affected. Um, and to what degree for those already affected? Adversely affected? How much better or worse? Um, so it is forecast to become.



01:05:08:18 - 01:05:34:24

We accept that where we be. I think in your submissions there will be some small reductions and some increases. Correct. Um, and potentially introducing these other thresholds that we've not gotten to yet. Um, points at which um premises may become significantly adversely affected or in again may may cease to be significant adverse effects depending on, on the the um the forecast outcomes.

01:05:37:04 - 01:05:47:01

And that. Yeah. That's fine. Um, so this is, uh. Let's turn to how the value of a loan is determined and what parameters should be used.

01:05:48:09 - 01:06:19:21

I'm Steve Mitchell for the apple. Could I just make 11. there? Um, I think you were referring to, um, the change in noise for those people already above, lol. We're interested in how that might get worse for them. Um, one important feature of the project is that we're not introducing new flight paths. So, um, vast majority of the impact is all to do with the intensification of the air services. We're not producing a new flight path over a green field.

01:06:19:23 - 01:06:22:01

I think might have been the expression you used. No.

01:06:22:26 - 01:06:39:09

I was talking about just just to try and I wasn't very clear, was I? I was contrasting you're comparing and contrasting. How's the development, which is an expansion of the existing airport with a scenario where you were going into the green field with a brand new airport.

01:06:39:15 - 01:06:40:04

Thank you sir.

01:06:40:07 - 01:06:43:14

Somewhat different. That's a somewhat different scenario. I just wanted to try and just.

01:06:43:16 - 01:06:48:25

I would agree it is a different scenario if that was the case, which it isn't. Yes. Thank you. Um.

01:06:49:21 - 01:07:06:00

So is it correct to say that that these, uh, we might come on actually, briefly, could you try and explain to the woman. The principal metric that is used by the aviation industry in the UK. But the assessment of aviation modes.

01:07:06:21 - 01:07:33:28

Steve Mitchell. Yes, I can, and we, um. As I should have said earlier, because people's response to noise is so varied. So we're talking about perceptions and non acoustic factors. Um, we have to rely on the research that tells us how to. Describe the changes in noise and the effects it has on people. And there was a lot of research over many years on the effects of air strikes. Um, the.

01:07:34:00 - 01:07:46:19

Applicant I just want rather than getting to that which will come on to, um, can you just tell us the metric, the parameter that is used in the UK aviation sector?

01:07:47:12 - 01:07:50:00

Yes. So I was coming to that. So that if you.

01:07:50:02 - 01:07:51:16

Start with that then please.

01:07:51:18 - 01:08:09:04

That research leads us clearly to the use of like 16 hour, 9 to 2 day summer season, like eight hour. Point in summer season as the. Best indicator in this country for the effects of noise from aircraft.

01:08:10:00 - 01:08:13:20

That's fine. That's that's. That's what I was looking for.

01:08:14:22 - 01:08:15:07

Um.

01:08:16:06 - 01:08:33:10

I think you mentioned surveys how you then find out what values to assign to that parameter. So. Which survey is the most relevance of aviation to aviation in the UK? Which? Which piece of work gives us, informs, informs us on that matter?

01:08:34:01 - 01:09:00:23

Steve Mitchell for the applicant. Um, much of the research is international, as you know, and people like the Who guidelines, of course, are drawn on international research in this country. We have a study of noise annoyance from aircraft that was carried out in 2014. That is the main. Social survey of noise annoyance that is used in this country to derive the. Well, that's what we hear in government policy.

01:09:00:25 - 01:09:28:20

That's fine. That's that's that's that's what I was expecting. That's the answer I was expecting. So I'm happy with that. Um, so in my words here, so that the latest edition of that um, uh, document, which is cap 1506, published in 2021, um, would be I've described it as the go to study. Would you agree with that? Yes. So we can go to figure eight on page 55. I'll give you a moment.

01:09:29:09 - 01:09:30:11

And I'll do the same.

01:09:34:28 - 01:09:36:09

I think it's in my head. So don't.

01:09:45:11 - 01:09:46:19

I'm sorry, what was the page number?

01:09:47:05 - 01:09:50:07

Um, let me just, um. Page 55. Pick of eight.

01:09:55:27 - 01:10:02:08

Said the wrong version. Are you referring to the 2021 version? It's got.

01:10:02:10 - 01:10:08:08

July 2021. I found it July 2021 is at the bottom of the page. Page 55. Figure eight.

01:10:14:09 - 01:10:16:21

So I'll give you a moment we can talk about. How is it.

01:10:16:23 - 01:10:19:04

Referred to in any of our submissions, such as.

01:10:19:06 - 01:10:20:19

When you certainly refer to the study.

01:10:20:21 - 01:10:21:24

14.9.

01:10:22:08 - 01:10:26:11

Well, if you refer to the study, haven't you say I'm just taking it to the study you refer to.

01:10:29:03 - 01:10:29:20

I believe it is.

01:10:29:25 - 01:10:34:22

But you agree with my point that that's basically the study that informs guidance and so on.

01:10:36:29 - 01:10:37:25

Figure nine.

01:10:39:16 - 01:10:40:20

Page 55.

01:10:43:07 - 01:10:45:15

Can't carry on. I see if I can answer your question.

01:10:45:17 - 01:10:49:01

Well, the next question is quite an important one, so I'd rather wait until you've got to the.

01:10:50:15 - 01:10:52:12

So you. Sorry, sir. You're referring.

01:10:52:14 - 01:10:54:14

To camp 15 zero.

01:10:54:16 - 01:11:01:09

Six. I mean, this is this is 2000 in your application. So I assume you're familiar with all the documents you refer to in your application?

01:11:01:11 - 01:11:02:22

Of course. I just need to find it.

01:11:04:09 - 01:11:05:15

15 06A.

01:11:07:03 - 01:11:07:29

There's no way. No, I don't.

01:11:08:01 - 01:11:08:18

Think you want the A.

01:11:08:20 - 01:11:10:13

I think it's just 1506.

01:11:13:23 - 01:11:18:00

I'm slightly surprised you can't. I'm surprised it's not embedded in your memory, frankly.

01:11:19:25 - 01:11:20:29

Yes, I do have it now.

01:11:21:01 - 01:11:29:05

Right? Good. I didn't ask to bring it up on the screen, but because we get into sort of more deep, kind of, um.

01:11:32:14 - 01:11:37:09

Deeper. Get into the heart of the matter. Okay. Um.

01:11:38:24 - 01:12:00:00

So. So does the applicant agree. So you've got the you've got that graph up which shows just for the people who haven't got the graph some of you have that shows um, percentage highly annoyed against um, noise exposure of expressed in this metric that we've just, um, discussed. Is that correct? Yes. Great. Okay. So.

01:12:02:03 - 01:12:02:18

So.

01:12:04:23 - 01:12:23:00

Does the applicant agree that this graph is consistent with the UK? Health security agencies relevant representation dated 20th October 2023. That refers to, and I quote, the growing body of evidence suggesting that adverse effects occur below 51dB, like 16 hours.

01:12:24:10 - 01:12:37:14

Yes. Sorry. Steve Mitchell for the applicant. Yes, we do agree with that. And that is acknowledged in the environmental statement as well. But I think we quote that below the law, approximately 7% of the population would be highly annoyed about that.

01:12:37:16 - 01:12:50:26

I think you're moving on. You're moving on to something else, I think. Forgive me. Can I just move on? We can discuss this in a moment. But you agree that that is consistent with their, um. Doesn't it? Yeah.

01:12:52:25 - 01:13:00:11

I expect. The applicant has also seen that Kent County Council saying their relevant rep. 27th and 10th, 2023.

01:13:03:08 - 01:13:20:27

But, um. And I'll just quote it. Kent Kent County Council's long argued. The impacts of Gatwick, its current single one way configuration are already unacceptable. And the potential increases, these impacts on local communities would be intolerable.

01:13:22:12 - 01:13:57:22

Areas of West Kent that was Tunbridge Wells, Edenbridge, Heaver and Penshurst are adversely affected by overflight from Gatwick, so I expect you already seen that. I'm just reminding you. And I've an extract from someone in. Okay past the post code 1048. Who says I'm not going to quote a quality of life is already affected. Continuous noise from low flying planes every 60s is not a healthy way to live.

01:13:58:19 - 01:14:03:27

A patient. You might not have remembered all these. Representations, but they want the.

01:14:05:29 - 01:14:34:23

My next question is in the same tone. Really? Isn't it also true that the UK Health Security Agency has said 45dB like 16 hours a day? Which is more closely aligned to the threshold at which adverse effects of aviation noise are likely to start. And they said in their relevant presentation to London Luton Airport dated 23rd of June, which no doubt you will have followed because obviously it's somewhat ahead of us in the examination process.

01:14:36:18 - 01:14:39:11

That's just simply true, isn't it? But they said that.

01:14:41:20 - 01:14:43:21

Um, I believe so, yes. Thank you.

01:14:46:09 - 01:14:47:02

So.

01:14:49:11 - 01:15:01:01

Perhaps applicant could tell us how many of the relevant reps that can use the word complain about existing noise are outside of their 51dB de contour, which the applicant has set as a low?

01:15:02:17 - 01:15:06:24

Um, Steve Mitchell, I'm afraid I haven't done that analysis, but I don't take.

01:15:06:26 - 01:15:08:13

No, that's that's fine. I know a.

01:15:08:15 - 01:15:09:26

General point that it would be a large.

01:15:09:28 - 01:15:11:17

Number. It'd be a large number, like.

01:15:11:19 - 01:15:21:13

I said, that, um, there are over 2500 relevant reps that refer to existing noise. Have analyzed how many of those are inside or outside the law.

01:15:22:12 - 01:15:53:14

And I'll assist you a little bit because we've done a bit bit of work on this. Um. So would the applicant be surprised? I think there are some probably. We know if if you were told that based on our analysis of the what are called the clustering, relevant maps and areas, for example in ten 1186, which is Lee Penshurst and Tunbridge Wells identified about 150 individual complaints about existing aviation noise. So I think the answer would be you wouldn't be surprised. Um. And I think you've answered the accept these outside.

01:15:53:16 - 01:15:54:01

So.

01:15:56:12 - 01:16:16:16

This is my sort of summarize the question that we are faced with. This is the question that we are faced with the next day. This is it, the United Kingdom Health Security Agency, Kent County Council. And this sample of people, this sizable sample of just one sample of West Kent.

01:16:17:21 - 01:16:18:15

As long.

01:16:19:13 - 01:16:32:04

Or is it the 51 DB the applicant uses in its environmental statement? Chapter 14 noise Vibration App 039. Table 14 .4.6 as the daytime low. That is just plain wrong.

01:16:33:13 - 01:16:42:03

Um, Steve Mitchell for the applicant. Could you first of all, just repeat the number you gave me of the relevant reps that I think you thought were outside the law?

01:16:42:15 - 01:16:44:04

Well, I had 150, I think in.

01:16:44:06 - 01:16:44:29

My 150.

01:16:45:01 - 01:16:47:14

Is a cluster in that postcode area.

01:16:47:25 - 01:16:52:13

Or in a particular postcode. I think I said I'd read about 2500 relevant.

01:16:52:16 - 01:17:22:27

Yeah, that will be the total number of people who what I'm trying to focus on, as I'm sure you will fully appreciate, is if you a question. I missed out, by the way. But the applicant could applicant agree and we can ask for a map, but it's about 27 to 28km away. And if you look at the 2022 RDC report to C02 figure B15 published in July 2023, which shows the 51 DB contour goes out to about 20km in that direction. So I'm sure you're familiar with these documents.

01:17:22:29 - 01:17:31:29

Yes. So all these clusters of people are outside of that contour. That's obviously the point I'm making. So I'll just ask that question again.

01:17:33:03 - 01:17:47:28

Which I'll let Mr. Mitchell answer that question and course. Can I just strike a note, of course, that we're being asked to answer a question based on a clustering that we we haven't we just haven't seen that yet.

01:17:48:18 - 01:17:50:23

And with respect, you have all the information.

01:17:51:05 - 01:18:15:00

Yes. But you're you're asking us a question about a cluster that, um, we have analyzed or some information which. So you suggest that, um, you had as a result of the information that's been been put in? I'm not saying we can't answer the question. I'm just. I'm just striking the little caution that you're asking us to deal with a point in relation to work that has been done by the examining authority that we haven't, we haven't seen yet.

01:18:15:02 - 01:18:19:18

Well, okay. Well, would you rather would you rather respond to the, the United Kingdom health security agencies.

01:18:19:20 - 01:18:29:00

So we can answer that question? Sir, I'm just I'm just asking this just putting that, uh, qualification down for anything that Mr. Mitchell may say after me.

01:18:29:18 - 01:19:13:12

Thank you. Yes. Steve Mitchell, the applicant. Um, as I mentioned earlier, we acknowledged that below the low wall, people are highly annoyed by aircraft noise. And the reference is in chapter 14, paragraph 14.2 .52. There, as I said earlier, um, it shows the sonar studies showed about 7% of the population were employed below that value. So that's consistent with the statistic you just gave me. But if I can just read back to the policy guidance, because it relates to the point I made earlier, that one of the challenges we have in managing noise and working out what mitigation is required, is this very large diversity of response to noise.

01:19:13:29 - 01:19:47:21

We could set it at the top or the bottom of that response, and we rely on policy to help us make those judgments. And government policy is very clear. And it was in October 2017, the consultation response on UK airspace policy told us what the law was, and you will be familiar with the document. The yellow, the 51 DB for the day and a 45 decibel night. But then it did go on to say this further confirms that these metrics will ensure that the total adverse effects on people can be assessed in airspace options compared.

01:19:47:27 - 01:20:13:12

It will also ensure airspace decisions are consistent with the objective of the overall policy to avoid significant adverse effects and minimise adverse impacts. So that policy guidance, which is quite recent, tells us that providing we assess the effects above the law, we have assessed the total adverse effect in accordance with policy, which is what the guidance, what the environmental statement provides for you to help you reach a view on the application.

01:20:15:10 - 01:20:26:19

And that is no way inconsistent with accepting that there are people affected below the law. We're simply using government guidance to tell us where to draw the line to do our assessment, and we're consistent with that guidance

01:20:28:06 - 01:20:28:26

we're showing.

01:20:29:00 - 01:20:32:06

I'm I thought you might say that, obviously. Um.

01:20:33:25 - 01:20:38:12

You know, you're referring to the government's response to consultation on you on airspace.

01:20:39:12 - 01:20:40:13



Yes. Policy.

01:20:40:15 - 01:20:41:00

Yeah.

01:20:41:10 - 01:20:41:25

Um.

01:20:42:06 - 01:20:44:19

And in that. And I'm just trying to find my own, um.

01:20:49:06 - 01:20:54:11

Which says, yes, I think you refer to the October 2017.

01:20:54:13 - 01:20:56:13

Yes. It's paragraph 2.72.

01:20:56:15 - 01:20:59:05

Can I take you back 1 or 2 steps then? Um.

01:21:01:00 - 01:21:09:18

Introduction. Next steps. Government response. The government has issued navigation directions and navigation guidance to the CAA, which will take effect from 1st January.

01:21:12:01 - 01:21:17:00

So, so obviously to bringing to effect that response. They provided guidance didn't they?

01:21:18:24 - 01:21:27:24

The government provided guidance in 2017. The air navigation guidance. Yeah. You don't refer to him in the application, do you?

01:21:29:13 - 01:21:33:29

Um, I don't think we're inconsistent with it, though. Sorry. I don't believe we're inconsistent with that guidance.

01:21:34:03 - 01:21:44:19

My point, I think, is that it's the guidance that then actually sets out government guidance on this point. Shall I read what the guidance says?

01:21:46:10 - 01:21:46:25

Find it.

01:21:51:06 - 01:21:52:01

Would you want me just to?

01:21:54:25 - 01:21:59:21

3.5 Scotland. I'm sorry sir. Which document are you referring to?

01:22:00:25 - 01:22:02:12

The navigation guidance.

01:22:04:03 - 01:22:10:13

So so let's just try and just try. And so there's a policy consultation for that early in 2017.

01:22:12:02 - 01:22:34:06

And there was a government response later in 2017. And then this was followed up by guidance, which is quite a sort of normal approach, isn't it really. You consult and then you produce guidance. So. Wherein policy, wherein policy does it define this community law? Because 7% of respondents adversely affected.

01:22:37:15 - 01:22:38:10

Because the role is.

01:22:38:12 - 01:22:43:10

Defined in the explanatory note. The noise published this time from England, is it not? Which we agreed, I think.

01:22:43:26 - 01:22:54:23

Yes. And the noise policy is for England doesn't give us the noise values. So we refer to government to give us, in this case government helpfully do give us the noise values very clearly.

01:22:54:25 - 01:23:26:09

But it's no no no no, please, please be clear on this point. It's very important point, isn't it? There was a policy consultation. There was a government response to bring into effect the policy. The government produced guidance. And in that guidance he introduces this term called the Community law, which as you say, is the point at 7%. Now, just for the benefit of people who have not been looking at this closely for the last few months, um, can we just mention one of the limitations of the Sona survey?

01:23:28:15 - 01:23:29:20

Would you like to comment on that?

01:23:31:00 - 01:24:11:20

Scotland. Sorry, sir, just to cut across that question, but we're just looking at the air navigation guidance. To think was the subject of your earlier question on paragraph 3.5 for that of that? Um, accepts that there is no one threshold which all individuals are considered to be affected by noise possible to set a lowest observed adverse effect level. That's regarded as the point at which adverse effects began to be seen on the community basis. Spaces indeed goes on to say, for the purpose of assessing and comparing the noise impacts for the government to set a low of 51dB, 16 hours for daytime noise and 45dB like for.

01:24:11:22 - 01:24:24:26

So I think when you take words out of Mr. Mitchell's, um, mouth, insofar as he had referred to the earlier document which sets those figures, they have been followed through in the later document. Sir.

01:24:25:15 - 01:24:43:17

I still come back to my LA. That makes me a rather picky point that that that the this idea of a community, something that is adverse on a community basis, is not set out in Lloyd's Policy Statement of England or the National Policy Planning Framework. I've got those words probably mixed up.

01:24:43:26 - 01:25:02:12

Again, Mr. Mitchell, add to this, but the noise policy statement for England is clear in saying that we want it comes to setting um levels such as so local it cannot as a general policy document, do that job because those may arise in a number of different contexts.

01:25:02:24 - 01:25:32:18

I totally agree that you don't do it in policy, because if you do it in policy, it's more difficult to change. The concept is in policy. The guidance provides you with guidance on numbers. Yes. And and the guidance. Guidance introduces this additional concept. I will call it the community law, which if you look at the Sony graph is 7%. Now, I did ask Mr. Mitchell the question around limitations of the similar survey. And would you like to tell me some of the limitations of the service?

01:25:32:29 - 01:25:45:15

Steve Mitchell I can do. I mean, there are limitations of every social survey because of the complexity of of pulling out the effect that you're looking from, looking to, to investigate at the same.

01:25:45:17 - 01:25:46:05

Time, just to.

01:25:46:07 - 01:25:47:14

Say the counting factors.

01:25:47:21 - 01:25:49:09

I'm going to interrupt you. Sorry. Um.

01:25:51:08 - 01:26:25:12

Tell me. Let me read it out. I mean, just to say, just to see me going from memory. To see me going from memory. Um. In. This is a 20 page 25 of the of the Stone of document. Yeah. Which you perhaps you have still up there. 4.4. It must be remembered that the so in the 2014 is not intended to represent a national sample, as respondents were required. This is, I think, the keeper. Well, that's quite key as well. Respondents were required to live within the vicinity of a civil airport, and this is the really key bit and be exposed to an average summertime noise exposure level of at least 51 DB.

01:26:26:10 - 01:26:31:01

So basically they didn't ask anybody but exposed below 51.

01:26:32:10 - 01:26:35:26

Did they? Well, figure eight does give us a dose response.

01:26:36:02 - 01:26:38:03

Extrapolated the curve. Yes. Okay.

01:26:38:14 - 01:26:47:13

Um, and I would point out in terms of whether it's representative of the UK, um, there are about 2000 survey points and about 200 of them were at Gatwick Airport.

01:26:48:10 - 01:26:51:21

Hundred just somewhat less actually, but maybe 180.

01:26:52:00 - 01:26:53:21

It was a very small number, I think.

01:26:53:23 - 01:27:20:11

And you may recall one of my very early questions was around. Whether you actually experience an adverse effect may depend on the noise level without the development, which was discovered much earlier. I'll come back to the key point here. Yeah. So do you go. I'm going to come back to my question actually, frankly, which is was it seems such a long time ago now.

01:27:20:28 - 01:27:21:13

Um.

01:27:23:05 - 01:27:35:21

Is it that the ukhsa are wrong? Kent County Council are wrong on these people. Are Tunbridge along? Or is it the value you use in your table is wrong? Has a role as defined in policy.

01:27:37:09 - 01:27:43:23

Steve. Mitch, I don't think either of those are wrong. I think we acknowledge and the graph from the.

01:27:43:29 - 01:27:46:21

Baseline is basically the same thing.

01:27:47:06 - 01:28:19:24

Um, what I would say, I think there's a question that you've asked again that I did reply earlier to, which was the question of whether the ambient noise or the otherwise existing noise affects that response. Um, and I'm aware that a number of relevant reps have referred to that. Um, so I have explored it and in fact, we have done some time ago. There is a report that we did with the Noise Management Board in reported in December 2018 with the Ambient Noise study, which is not before you, and we should perhaps submit that.

01:28:20:10 - 01:28:50:27

And we looked because the noise Management Board were asking exactly the same question that you've just put to us. Is it the case that if you're in a quieter rural area, you'll have a higher response to noise? That was the point put to us by the Noise Management Board and Gatwick Airport Limited.

Um took that point very seriously and commissioned a study on it that I was lucky enough to lead. It started with a noise metric study, but it led to the noise, the ambient noise study, which were put to you in a submission.

01:28:51:09 - 01:29:11:16

And we did 3 or 4 things in that. But one of the things we did do was look into the sonar results, which is why I know there was nearly 200 surveys around Gatwick. We assigned an ambient noise level approximately to each of those survey points from other sources as best we could, and we attempted to desegregate the effect of ambient noise.

01:29:11:18 - 01:29:19:18

Can I, can I can I summarise you're going to be making an additional submission on this point to try and explain your position. Is that fair?

01:29:21:11 - 01:29:25:09

Yes, I was just answer your question, but we can submit that report. I think you'd find it helpful.

01:29:26:01 - 01:30:12:14

Sorry. Scotland for the applicant. Um, that information comes in fine, but I think it's important not to lose the initial point, which is where you started with this. As far as the definition of law is concerned. Um. The way the question is put, we would say ignores the fundamental point, which is that we say there is government policy guidance which indicates what the law should be. It may not be set out in the Npci or the Noise Policy Statement for England, for reasons we've just recently discussed, but we have pointed to paragraph 3.5 of our navigation guidance, which we say carries out the function anticipated under NPS and whereby further expression of the law or so can appear in more specific guidance.

01:30:12:25 - 01:30:39:12

And that is that task has been performed in paragraph 3.5. And we say it's entirely appropriate for the applicant to rely upon that level. We appreciate others may have expressed different views about noise impacts. Mr. Mitchell has dealt with, but the fundamental point is we are following what we consider to be government policy, and it's not necessarily appropriate to look behind that for the purpose of setting law in this case.

01:30:43:02 - 01:30:46:10

I think I understand your position. Thank you. Um.

01:30:50:06 - 01:30:53:20

I think I might, um. Where are we in terms of time? Um.

01:31:00:05 - 01:31:08:00

I think we'll have a short break now. It's now, um, 1131. We'll come back at 1146. Thank you.