



STRATEGIC AVIATION SPECIAL INTEREST GROUP  
of the Local Government Association

Consultation response to changes  
to the suite of guidance  
documents for the Major  
Infrastructure Planning Regime

6 July 2012

## **CONSULTATION RESPONSE TO CHANGES TO THE SUITE OF GUIDANCE DOCUMENTS FOR THE MAJOR INFRASTRUCTURE PLANNING REGIME**

### **Recommendations**

- A Compensation and mitigation measures for major infrastructure schemes should be agreed at the planning stage.
- B Compensation to communities should be paid at the start of the process.
- C Assessment of the compensation costs and mitigation measures should be appropriate and effective.
- D Where existing major infrastructure already exists, and there is a change in operations, effective consultation so take place and appropriate and effective measures introduced.
- E The impacts of all proposals, including alternative proposals included at the pre-application consultation stage should be calculated and mitigation and compensation measures and costs implemented (as appropriate).



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## Summary

- 1 SASIG believe that changes are needed to the procedure delivering mitigation measures and appropriate compensation to communities affected by major infrastructure schemes.
- 2 In response to the consultation on changes to the suite of guidance documents related to the major infrastructure planning regime this report identifies several changes to the process which would ensure that mitigation and compensation procedures are comprehensive, appropriate and timely in relation to major infrastructure development.
- 3 The following changes to the process have been identified in order contribute to the delivery of a fairer, and more effective procedure that ensures impacts from the planning, construction and operation of major infrastructure are fully accounted for:
  - Compensation and mitigation measures should be agreed at the planning stage
  - Compensation to communities should be paid at the start of the process
  - Assessment of the compensation costs and mitigation measures should be appropriate and effective
  - Where existing major infrastructure already exists, and there is a change in operations, effective consultation so take place and appropriate and effective measures introduced.
  - The impacts of all proposals, including alternative proposals included at the pre-application consultation stage should be calculated and mitigation and compensation measures and costs implemented (if appropriate)

## Discussion

### **See consultation question 3 (annex 1):**

### **Do you believe the new Pre-Application Process Guidance covers the right range of topics and describes them effectively?**

- 4 SASIG wish to use this consultation to highlight the need for a more comprehensive regime with regard to compensation and mitigation procedures in relation to major infrastructure schemes. The construction and operation of major infrastructure can have huge impacts for communities and can affect health, well being, community cohesion as well as having financial and economic impacts on the local housing market and the nature of the local economy.

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Compensation and mitigation should be agreed at planning stage.

- 5 The impacts of a major infrastructure scheme need to be fully assessed and understood by all stakeholders, in particular local communities, before an application for development is made. Building a comprehensive evidence base will contribute to achieving agreed appropriate mitigation measures.
- 6 Measures to mitigate negative impacts of major infrastructure need to be agreed by local communities, the local authority and the applicant at the planning stage. A comprehensive assessment of the impacts of the proposal is needed to ensure that the mitigation measures are appropriate and effective.

Compensation should be paid upfront.

- 7 In addition, an evidence base of impacts would reinforce the principle that compensation should be paid at the planning stage, in order to take account of when the impacts on the local communities, particularly the impacts on the local housing market, first occur.
- 8 Changes to the current compensation arrangements are required to redress existing deficiencies, in particular the time lag between the announcements of a major infrastructure project and the payment of compensation. Currently, The Land Compensation Act 1973<sup>1</sup> specifies that compensation is due one year after project completion, and is not dependent on throughput.
- 9 The current statutory compensation arrangements need to be improved in order to address the ongoing cumulative impacts of 'blight'. Payment of compensation to communities must be brought forward to take account of when impacts on begin to occur in order to reduce the cumulative impacts of blight.

Assessment of the compensation costs and mitigation measures should be appropriate and effective.

- 10 Developing a comprehensive evidence base of impacts should be done through extensive consultation with the local community. Developers have a responsibility to produce an Environmental Statement, including an Environmental Impact Assessment, and this document should make clear links between impacts and mitigation measures. Local Authorities can also contribute to developing a robust evidence base through a Local Impact Report. Guidance on both of these documents

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<sup>1</sup> Land Compensation Act 1973 c.26 <http://www.legislation.gov.uk/ukpga/1973/26/contents>

The Land Compensation Act 1973 is statutory legislation related to compensation of homeowners whose property values are affected by physical factors, caused by the works undertaken. The physical factors that can affect property value under the Act are: noise; vibration; smell; fumes; smoke; artificial lighting; and discharge of solid or liquid substance onto the land. These are the only factors to be taken into account.

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should emphasis the links between impacts and mitigation/compensation and specifies the proposals for mitigation and/or the level of the compensation due.

- 11 Local Authorities are responsible for preparing a Local Impact Reports (LIR). The LIR may cover a broad range of local interests and impacts, including economic and social ones. The impacts should be presented in terms of their positive, neutral and negative effects. The Local Impact Report is an opportunity to gather evidence of local impacts that could be used to strengthen the case for particular compensation or mitigation procedures. As a result, the guidance should be clearer and contain more information on the importance and role of Local Impact Reports.
- 12 In relation to the guidance published on the pre application process, paragraphs (71/72) refer to the appropriateness of including Environmental Statement information at the pre application consultation stage. In line with best practice<sup>2</sup> on producing Environmental Statements the application process guidance should also specify the following elements:
  - a. Can a potentially harmful impact be avoided or prevented?
  - b. If it cannot be avoided or prevented, can it be mitigated, and if so how?
  - c. If effective mitigation is not possible, how can the harm caused by the impact be compensated for?
- 13 Inclusion of these elements, identified as 'best practice', within the guidance will focus the ES on producing **specific outcomes** related to compensation and mitigation measures.
- 14 In producing Environmental Statements it is not yet routine practice to value environmental impacts such as noise in order to assess the amount of compensation due. To some extent there are metrics in place to measure environmental impacts such as noise and air quality, however the indirect impacts on health<sup>3</sup> and education<sup>4</sup>, for example, are often not fully considered.
- 15 In particular the noise levels at which one qualifies for noise compensation is too low. For example the current Heathrow noise insulation scheme is based on a 69 dB(A) contour plus a 90 SEL 747 footprint criteria for bedrooms whilst Gatwick and Stansted is based on a 66dB(A) contour. At London City Airport the noise insulation scheme is based on 57 dB(A) which is better. There is evidence available which should feed into

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<sup>2</sup> Royal Town Planning Institute Planning Practice Standard, 2001  
<http://www.rtpi.org.uk/download/776/PPS-Environmental-Impact-Assessment.pdf>

<sup>3</sup> Environmental Noise and Health: A Review, ERCD Report 0907, Civil Aviation Authority, 2010  
<http://www.caa.co.uk/application.aspx?catid=33&pagetype=65&appid=11&mode=detail&id=3924>

<sup>4</sup> Aircraft Noise and Children's Learning, ERCD Report 0908, Civil Aviation Authority, 2010  
<http://www.caa.co.uk/application.aspx?catid=33&pagetype=65&appid=11&mode=detail&id=3925>

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calculations of thresholds for compensation payments with regard to noise. According to the European Environment Agency guidance on noise, 27% of people exposed to 55 Lden are severely affected by aircraft noise<sup>5</sup>. This is a much wider area than the aforementioned LAeq contours.

- 16 A new compensation scheme is required for all major transport infrastructure. A comprehensive compensation scheme should be developed to ensure that the full range of communities impacted upon is considered. A new compensation scheme should be reinforced by up to date evidence of the environmental impacts, including the indirect impacts on communities. The scheme should align with the latest data on noise and air quality and should inform, and be informed by, the Government's latest infrastructure strategies, such as the future national aviation policy<sup>6</sup> and the high-speed rail strategy<sup>7</sup>.
- 17 The cumulative impacts of a transport infrastructure development and operation need to be considered as part of the overall impact assessment. Cumulative impacts on an area can result in the negative impacts occurring at a much quicker speed and with greater impact than in isolation. Falling property values can result in residents being unable to move. A major transport development such as an airport or rail interchange can change the nature of the local economy, and lead to a dependence on a single industry. Changes to the local economy can lead to migration of different workers into an area and the housing market may shift substantially to a rental rather than an ownership market. Social impacts such as loss of the 'sense of community' may result, all of which needs more consideration when planning transport infrastructure.

Where existing major infrastructure already exists, and there is a change in operations, effective consultation should take place and appropriate and effective measures introduced.

- 18 SASIG would also like to highlight the need to address the impacts of existing major infrastructure. Where there is a change of operations it is likely that the impacts on local communities will also change. It is therefore imperative that the impacts caused by changes to operations are assessed, prior to the change, and appropriate mitigation measures developed and/or fair compensation paid to those affected.

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<sup>5</sup> Good Practice guide on noise exposure and potential health effects, European Environment Agency, 2010  
<http://www.eea.europa.eu/publications/good-practice-guide-on-noise>

<sup>6</sup> National Aviation Policy Review Scoping Document, DfT, 2011  
<http://www.dft.gov.uk/consultations/dft-2011-09>

<sup>7</sup> High Speed Rail: Investing in Britain's Future, DfT, 2012 <http://www.dft.gov.uk/publications/hs2-decisions-and-next-steps/>

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- 19 Specifically, SASIG would like to highlight that compensation arrangements for residents affected by negative impacts from aviation need to take into account changes in existing operations at airports. Aviation activity is forecast to increase at a number of airports. A recent example is the plan to expand the capacity of Luton Airport from 11.5 million passengers per annum to 18 million passengers' mppa and discussions to increase this to 30 mppa. Increases in aviation activity will increase the negative impacts, in particular on health and well being caused by noise and night flights, felt by local communities.
- 20 The experience of residents living near Stansted airport confirms the need for a comprehensive statutory compensation scheme. When the agreed passenger capacity limit at Stansted airport was increased from 8 million passengers per annum (mppa) to 15 mppa, residents were promised compensation. However, the airport now handles 18 mppa and no compensation has been offered.
- 21 Specifically focusing on the impact of noise, it is often the case that new infrastructure or changes in the way existing infrastructure is used leads to increases in noise. It seems to have become custom and practice only to offer compensation when the noise increases are 3dB or greater. In broad terms this means that one would have to experience a doubling of aircraft movements before any compensation or mitigation can be accessed. Compensation and mitigation measures need to be appropriate so that should levels of activity increase, the threshold levels for implementation of measures are at the correct level.

The impacts of all proposals, including alternative proposals included at the pre-application consultation stage should be calculated and mitigation and compensation measures and costs implemented (if appropriate)

- 22 SASIG note the change to the Major Infrastructure Scheme guidance on the pre-application consultation process, which clarifies that, an application may include alternative or variant proposals. Including alternative proposals may result in problems of blight affecting an additional area as well as the initial proposed location. SASIG would emphasis that where alternative proposals are included a full assessment of costs and mitigation measures should be undertaken.
- 23 SASIG recommend a full assessment of the compensation costs and mitigation measures will need to be undertaken in relation to all the proposed alternatives. In particular, the impacts of blight must be considered and compensation paid in relation to impacts on communities affected by all the alternatives considered.

## Conclusions

- 24 This report identifies key considerations in relation to way that compensation and mitigation measures are identified in the major infrastructure schemes planning process. Although this report details a broad range of impacts related to major infrastructure scheme planning it covers important elements which should be included within the guidance documents for Major Infrastructure Planning and in particular the guidance on the Pre Application Process. As a result this report should be considered



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as the SASIG response to the consultation on the changes to the suite of guidance documents for the Major Infrastructure Planning Regime.

- 25 The key elements of the SASIG response are that compensation and mitigation measures should be agreed at the initial pre application stage and compensation to affected communities should be paid when the impacts first occur.
- 26 The level of compensation and the nature of the mitigation measures require a comprehensive evaluation of the impacts of major infrastructure schemes. Mitigation measures need to be appropriate and effective and compensation should take into account and reflect the full impacts on communities. Including more detailed guidance on Environmental Statements and Local Impact Reports will assist in developing the evidence base.
- 27 The SASIG response also focuses on where there is a change in operations of existing major infrastructure. Numerous airport master plans forecast growth in passenger numbers and an increase in aviation activity that may be accompanied by airport expansion. A change in operations, such as increased passenger throughput is likely to increase the negative impacts of overflown communities, such as noise. Effective consultation needs to occur to ensure appropriate and effective mitigation measures are developed and compensation is required in order to reflect changes in operations, which further increase the negative impacts of aviation on local communities.
- 28 The changes to the guidance include the opportunity for variant proposals to be included in the pre application process. SASIG recommend that a comprehensive assessment of the impacts of all the variants/alternatives is undertaken, followed by appropriate mitigation measures and fair compensation for all communities impacted by all the proposals.

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## Annex A

### **Complete list of consultation questions for the Consultation on changes to the suite of guidance documents for the major infrastructure planning regime**

**Consultation question 1:**

Is it appropriate to merge the LA guidance with the Pre-Application consultation guidance?

**Consultation question 2:**

Is the Pre-Application Process Guidance easy to follow?

**Consultation question 3:**

Do you believe the new Pre-Application Process Guidance covers the right range of topics and describes them effectively?

**Consultation question 4:**

Do you think the revised Guidance on Associated Development is sufficiently clear?

**Consultation question 5:**

Is the range of associated development allowed to be consented in principle as part of a DCO appropriate?

**Consultation question 6:**

Is the Examinations Guidance easy to follow?

**Consultation question 7:**

Do you believe the Examinations Guidance covers everything it should?

**Consultation question 8:**

Is the Compulsory Acquisitions Guidance easy to follow?

**Consultation question 9:**

Do you believe the Compulsory Acquisitions Guidance covers everything it should?

**Consultation question 10:**

Do you agree that the worked examples of likely fees should be removed from the Fees Guidance until more evidence of actual costs becomes available?

**Consultation question 11:**

Is the Fees Guidance easy to follow?

**Consultation question 12:**

Do you believe the Fees Guidance covers everything it should?





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**Consultation question 13:**

Is the Application Form Guidance easy to follow?

**Consultation question 14:**

Do you believe the Application Form Guidance covers everything it should?

General

**Consultation question 15:**

Do you have any other comments on the proposals in these documents?