Judicial Review

Acknowledgment of Service

Name of court

High Court of Justice
Planning Court

Claim number

CO/2356/2021

Name of claimant (including any reference)

Uttlesford District Council

Name of defendant

The Secretary of State for Housing, Communities and Local Government

Interested parties

1. Stansted Airport Limited
2. Stop Stansted Expansion
3. North Somerset Council
4. Bristol Airport Action Network
5. Group for Action on Leeds Bradford Airport

This Acknowledgment of Service is filed on behalf of

( ) Name

The Secretary of State for Housing, Communities and Local Government

who is the

[X] Defendant

[ ] Interested party

Name and address of person to be served

Name

Uttlesford District Council, c/o Elizabeth Smith

( ) **Address**

Building and street

Council Offices

Second line of address

London Road

Town or city

Saffron Walden

County (optional)

Postcode

C	B	1	0	4	E	R

Section A

Tick the appropriate box

[X] I intend to contest all of the claim
– complete sections B, C, D and F

[ ] I intend to contest part of the claim
– complete sections B, C, D and F

[ ] I do not intend to contest the claim
– complete section F

[ ] The defendant (interested party) is a court or tribunal and intends to make a submission
– complete sections B, C and F

[ ] The defendant (interested party) is a court or tribunal and does not intend to make a submission
– complete sections B and F

[ ] The applicant has indicated that this is a claim to which the Aarhus Convention applies
– complete sections E and F

[ ] The Defendant asks the Court to consider whether the outcome for the claimant would have been substantially different if the conduct complained of had not occurred (see s.31(3C) of the Senior Courts Act 1981)
– A summary of the grounds for that request must be set out in/accompany this Acknowledgment of Service

Note: If the application seeks to judicially review the decision of a court or tribunal, the court or tribunal need only provide the Administrative Court with as much evidence as it can about the decision to help the Administrative Court perform its judicial function.

Section B

B1. Insert the name and address of any person you consider should be added as an interested party.

1.Name

N/A

Address

Building and street

Second line of address

Town or city

County (optional)

Postcode

Phone number

Email (if you have one)

2. Name

N/A

Address

Building and street

Second line of address

Town or city

County (optional)

Postcode

Phone number

Email (if you have one)

Section C

Summary of grounds for contesting the claim. If you are contesting only part of the claim, set out which part before you give your grounds for contesting it. If you are a court or tribunal filing a submission, please indicate that this is the case.

Please see attached summary grounds.

Section D

D1. Give details of any directions you will be asking the court to make.

Note: If you are seeking a direction that this matter be heard at an Administrative Court venue other than that at which this claim was issued, you should complete, lodge and serve on all other parties form **N464PC** with this acknowledgment of service.

☐ Set out below

☒ attached

Please see attached summary grounds (paragraph 95).

Section E

Response to the claimant's contention that the claim is an Aarhus claim

E1. Do you deny that the claim is an Aarhus Convention claim?

☐ Yes. Set out your grounds for denial in the box below.

☐ No

E2. Do you wish to vary the costs limits under CPR 45.43(2)?

☐ Yes. State the reason why you want to vary the limits on costs recoverable from a party.

☐ No

Section F

Statement of truth

I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

☐ **I believe** that the facts stated in this form are true. I confirm that all relevant facts have been disclosed in this application.

☒ **The defendant** believes that the facts stated in this form are true. **I am authorised** by the defendant to sign this statement.

☐ The **interested party** believes the facts stated in this form are true. **I am authorised** by the interested party to sign this statement.

Signature

☐ Defendant

☐ Litigation friend

☒ Defendant's legal representative (as defined by CPR 2.3(1))

Date

Day	Month	Year
02	08	2021

Full name

Mark Colautti

Name of defendant's legal representative's firm

Government Legal Department

If signing on behalf of firm or company give position or office held

Grade 7 Lawyer

Give an address to which notices about this case can be sent to you

Name

Government Legal Department

Address

Building and street

102 Petty France

Second line of address

Westminster

Town or city

London

County (optional)

Postcode

S	W	1	H	9	G	L

If applicable

Phone number

[redacted]

DX number

Email

[redacted]

If you have instructed counsel, please give their name address and contact details below.

Name

James Strachan QC; Victoria Hutton

Address

Building and street

39 Essex Chambers

Second line of address

81 Chancery Lane

Town or city

London

County (optional)

Postcode

W	C	2	A	1	D	D

If applicable

Phone number

[redacted]

DX number

Your reference

Z2109041/MKC/JD3

Email

[redacted]

Completed forms, together with a copy, should be lodged with the Administrative Court Office (court address, listed below), at which this claim was issued within 21 days of service of the claim upon you, and further copies should be served on the Claimant(s), any other Defendant(s) and any interested parties within 7 days of lodgement with the Court.

Administrative Court addresses

Administrative Court in London

Administrative Court Office, Room C315, Royal Courts of Justice, Strand, London, WC2A 2LL.

Administrative Court in Birmingham

Administrative Court Office, Birmingham Civil Justice Centre, Priory Courts, 33 Bull Street, Birmingham B4 6DS.

Administrative Court in Wales

Administrative Court Office, Cardiff Civil Justice Centre, 2 Park Street, Cardiff, CF10 1ET.

Administrative Court in Leeds

Administrative Court Office, Leeds Combined Court Centre, 1 Oxford Row, Leeds, LS1 3BG.

Administrative Court in Manchester

Administrative Court Office, Manchester Civil Justice Centre, 1 Bridge Street West, Manchester, M3 3FX.

Claim No. CO/2356/2021

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
PLANNING COURT
IN THE MATTER OF An Application for Permission to bring a claim under s.288 of the Town and Country Planning Act 1990

B E T W E E N:

UTTLESFORD DISTRICT COUNCIL

Claimant

-and-

SECRETARY OF STATE FOR HOUSING, COMMUNITIES AND LOCAL GOVERNMENT

Defendant

-and-

(1) STANSTED AIRPORT LTD
(2) STOP STANSTED EXPANSION
(3) NORTH SOMERSET COUNCIL
(4) BRISTOL AIRPORT ACTION NETWORK
(5) GROUP FOR ACTION ON LEEDS BRADFORD AIRPORT

Interested Parties

SUMMARY GROUNDS OF DEFENCE ON BEHALF OF THE SECRETARY OF STATE

The Claim bundle is not paginated the page numbers in this document refer to the electronic PDF pages and are referenced as: [CB/PAGE]

Introduction

1. By this claim, the Claimant, Uttlesford District Council ("the Council") seeks to raise a variety of 'complaints' against two decisions of the Secretary of State. Grounds 1 and 2 are directed at the decision to grant planning permission for certain works at Stansted Airport with an increase in its passenger numbers (from 35 to 43 million p.a.). Ground 3 is directed to the decision to award Stansted Airport Limited ("STAL") a full award of costs arising from the appeal.

2. The claim discloses no arguable error of law and is totally without merit. The 'complaints' in the Statement of Facts and Grounds ("SFG") are not founded upon legitimate grounds of challenge. For example, the SFG variously alleges that:

   (a) the costs decision was "unprincipled" (ground 3) and there was "spitefulness" in both the decision and the process followed (SFG[9]);

   (b) the Panel was "wrong" in various respects (SFG[6], [7], [87(1), (2), (3)(h) and (i)], [113], [115], [124]);

   (c) the Panel "deliberately misstated the Council's appeal evidence" (SFG[87(3)(f)]); and

   (d) the Panel "confused credibility of position with vagueness" (SFG[87(g)]).

3. Such language itself reveals this claim is a misguided attack on the legitimate exercise of planning judgment by the Panel rather than based on any real ground of legal challenge for the purposes of section 288 of the Town and Country Planning Act 1990 ("the TCPA 1990"). Moreover, many such allegations, such as alleging "spitefulness" of decision-making and "deliberate" mis-statement of evidence, are manifestly inappropriate in themselves and evidentially groundless. There is no basis for seeking to impugn the lawfulness of the decision-making of this independent Panel of inspectors in this way.

4. Indeed, the claim is particularly misconceived in circumstances where:

   a. the Claimant itself initially resolved to approve STAL's planning application, but then despite having been advised by their own officers that there were no material changes in policy or circumstances which would justify a different decision, subsequently changed its mind (CDL[15]); and

   b. at the appeal the Council's own planning witness conceded that permission for the application should in fact be granted subject to conditions (CDL[21]).

5. It is trite that planning permission should not be refused by a local planning authority where it considers the development can be controlled by condition. Refusal of permission in such cases is specifically identified in the national Planning Practice Guidance ("PPG") as an example of unreasonable behaviour which can merit a substantive award of costs against a

local planning authority[1]. The Panel's decision was therefore not only lawful, but also not even surprising. In addition, the Panel were clearly entitled to reject the Council's proposed Condition 15 for each of the reasons they gave.

6. Indeed, even if the Claimant were able to articulate its claim as involving any error of law (which it is not), it is clear that the decision to grant the planning application would not have been different (*Simplex CE (Holdings) Ltd v SSE* [2017] P.T.S.R. 1041 at 1060).

7. These summary grounds focus on the basic reasons why permission should be refused. Necessarily they do not engage with every point in the SFG. The fact that a point is not addressed is not to be taken as agreement with it.

Overview of the Facts

8. On 8 October 2008 STAL was granted planning permission for the operation of the airport for 274,000 aircraft movements and the handling of 35 million passengers per annum ("mppa") ([CB/42]).

9. On 22 February 2018 STAL applied to the Claimant for planning permission for:

> "airfield works comprising two new taxiway links to the existing runway (a Rapid Access Taxiway and a Rapid Exit Taxiway), six additional remote aircraft stands (adjacent Yankee taxiway); and three additional aircraft stands (extension of the Echo Apron) to enable combined airfield operations of 274,000 aircraft movements (of which not more than 16,000 movements would be Cargo Air Transport Movements) and a throughput of 43 million terminal passengers, in a 12-month calendar period." ("the Development").

10. Whilst the Development involves making better use of Stansted Airport's existing runway through the proposed improvements and an increase in passenger throughput from 35mppa

[1] See national Planning Practice Guidance, para 049 (Reference ID 16-049-20140306): "Local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals. Examples of this include: … refusing planning permission on a planning ground capable of being dealt with by conditions risks an award of costs, where it is concluded that suitable conditions would enable the proposed development to go ahead."

to 43mppa, it does not involve increasing the overall number of aircraft movements (e.g. planes taking off and landing) already consented for Stansted Airport. This is something that the Claimant fails to recognise in its claim. It is of obvious significance to the Claimant's attempt to rehearse the arguments it unsuccessfully sought to pursue on the appeal which were rejected by the Panel of inspectors, particularly with reference to the attempt to focus on aviation emissions and climate change. Similarly, the Claimant fails to draw attention to the improvements in controls over the noise environment created by the Airport that the proposals entailed as compared with the already permitted operations. Indeed, having considered the evidence on noise, the Panel summarised the position that overall the effects of the development would be beneficial (DL[56]).

11. On 14 November 2018 the Council's Planning Committee resolved to grant planning permission for the Development to proceed subject to completion of an agreement under section 106 of the TCPA 1990. On 2 May 2019 however, before any notice of grant had been issued, local elections resulted in a change of administration at the Council. On 28 June 2019 the Council resolved at an extraordinary meeting that a decision notice should not be issued until the Planning Committee could consider (amongst other things) any new material considerations and/or changes in circumstances since the resolution in November 2018. On 26 January 2020, despite emphatic advice received from the officers and legal advice taken from Queen's Counsel, the Council issued their decision notice refusing planning permission for the Development. In July 2020 STAL submitted its appeal against that decision. An inquiry before a Panel of three experienced inspectors was scheduled for January 2021.

12. On 8 December 2020, shortly before the inquiry, the Council first put forward a proposed "Condition 15" ([CB/174]). It sought to require STAL to submit a draft "Environmental Modalities Scheme" and other information to the Council periodically as Stansted Airport grew in total passenger throughput in 2 mppa blocks. The Council's intention was that this would then lead it to reassess such incremental increases taking into account all current legislative provisions, international instruments and policies relating to carbon emissions as existed in the future. In addition, it proposed introducing an independent expert adjudication system in the event of dispute under the condition, and so transferring its decision-making to such an individual in the event of a dispute.

13. The appeal ran from 12 January 2021 until 12 March 2021. STAL applied for an award of costs at the conclusion of the inquiry. The Claimant was allowed a further 28 days to respond to that application.

14. On 20 April 2021 the Government announced ([CB/439]) that it would set a new climate change target to cut emissions by 78% by 2035 compared to 1990 levels and that Carbon Budget 6 set under the Climate Change Act 2008 ("CCA 2008") was to incorporate the UK's share of international aviation and shipping ("IAS") emissions (recorded at DL[11] [CB/6]). The Inspectors invited the parties to comment on this and took their responses into account (DL[11]).

15. On 26 May 2021 the Panel issued its Decision Letter ([CB/4]) in which it allowed STAL's appeal. It also issued its Costs Decision Letter ([CB/38]) on the same day in which it granted STAL a full award of costs against the Council.

16. The Appeal decision starts at [CB/4]. Key findings or conclusions of the Panel, relevant to the claim were as follows:

    a. The Environmental Statement and Environmental Statement Addendum produced by STAL were prepared in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and there was "no significant contradictory evidence that causes the Environmental Statement or the Environmental Statement Addendum to be called into question" (DL[6]).
    b. Relevant national aviation policy along with the potential for a future change in policy was identified at DL[14]-[25]. Relevant to this, the Panel identified:
        i. The Aviation Policy Framework (March 2013) ("APF") sets out the Government's high-level objectives and policy for aviation (DL[14]);
        ii. More recently the Government had published the Airports National Policy Statement ("ANPS") and "Beyond the horizon, the future of UK aviation, Making best use of existing runways" ("MBU") (both June 2018) (DL[16]);
        iii. "The in-principle support for making best use of existing runways provided by MBU is a recent expression of policy by the Government. It is given in full

knowledge of UK commitments to combat climate change, having been published long after the Climate Change Act 2008 (CCA) and after the international Paris Agreement. It thoroughly tests the potential implications of the policy in climate change terms, specifically carbon emissions. To ensure that Government policy is compatible with the UK's climate change commitments the Department for Transport (DfT) aviation model was used to look at the impact of allowing all MBU airports to make best use of their existing runway capacity. This methodology appears to represent a robust approach to the modelling" (DL[18]);

iv. International aviation emissions are not currently included within UK carbon budgets and are instead accounted for through "headroom" in the budgets with a planning assumption for aviation emissions of 37.5Mt of CO^2(DL[19]);

v. There has been no change to the headroom planning assumption, nor indication from Government that there will be a need to restrict airport growth to meet the forthcoming budget for international aviation, even if it differs from the current planning assumption;

vi. The MBU sets out a range of scenarios for ensuring the existing planning assumptions can be met. MBU policy, even in the maximum uptake scenario tested, would not compromise the planning assumption (DL[21]);

vii. No examples of MBU-type development (with the possible exception of Southampton Airport) have gained approval since the MBU's publication and as such "it can be readily and reasonably concluded that this development would not put the planning assumption at risk" (DL[22]);

viii. Consistent with the APF, the MBU differentiates between the role of local planning and the role of national policy. Including that some important elements should be considered at a national level, such as carbon emissions which are specifically considered by the MBU (DL[23]);

ix. Notwithstanding the amendment of the CCA 2008 to bring all greenhouse gas emissions to net zero by 2050 and the new climate change target to cut emissions by 78% by 2035 compared to 1990 levels, the MBU remained Government policy. There are any number of mechanisms the Government might use to achieve these obligations which may or may not involve the

planning system (DL[24]). These are all matters for the Government to consider (DL[25]).

c. The Panel considered the specific carbon/climate change implications of the appeal at DL[82]-[102] and [153]. Ultimately the Panel took the view that carbon emissions weighed "against the proposal only to a limited extent and could not be said to compromise the ability of future generations to meet their needs, or otherwise conflict with the objectives of the Framework taken as a whole". In reaching that judgment the Panel:

   i. Expressly took into account Government announcements which were made subsequent to the MBU (DL[84]-[86]). This included recommendations made by the independent statutory adviser to Government under the CCA 2008, the Committee on Climate Change ("CCC") (DL[84]-[85] and [90]);

   ii. Considered the carbon emissions of the Development as against the planning assumption (DL[88]) and as against what the Council considered might happen as a result of CCC recommendations (DL[90]);

   iii. Found that, when considered against the planning assumption the emissions equated to only 0.24% of that assumption (DL[88]);

   iv. Found that the Development's emissions amounted to only 0.39% of the reduced figure the Council suggested (DL[90]);

   v. Found that:

      "Although UK statutory obligations under the CCA have been amended since the publication of MBU to bring all greenhouse gas emissions to net zero by 2050, with an additional target of a 78% reduction in carbon emissions by 2035 set to be introduced, MBU remains Government policy. Given all of the foregoing and bearing in mind that there are a range of wider options that the Government might employ to meet these new obligations and that aviation is just one sector contributing to greenhouse gas emissions to be considered, there is also good reason to conclude that the proposed development would not jeopardise UK obligations to reach net zero by 2050 or to achieve the planned 2035 intermediate target. On this basis, given the very small additional emissions forecast in relative terms, there is also no reason to expect that the Council's climate emergency resolution should be significantly undermined." (DL[94])

17. It is considered helpful to identify this part of the detailed reasoning of the Panel here, because much of it is simply ignored by the Council in their claim. The Panel's reasoning in full demonstrates that the grounds are untenable.

Policy Context for the Decision

18. The development plan for the purposes of section 38(6) of the Planning and Compulsory Purchase Act and section 70(2) of that Act was the Uttlesford Local Plan (recorded at DL[149] [CD/29]). The Council agreed that the proposal accorded with the development plan (recorded at DL[155] [CD/30]).

19. Relevant national policy included the National Planning Policy Framework ("NPPF") together with relevant Aviation Policy which was made up of:
    a. The APF (March 2013) [CB/484] – this identifies that making better use of existing runway capacity at all UK airports is a short to medium term priority (see para.10).
    b. The ANPS (5 June 2018) [CB/570] – its primary purpose is for deciding a development consent application for a north-west runway at Heathrow, but it refers to being an important and relevant consideration in respect of applications for new runway capacity and other airport infrastructure in London and the South East of England (para. 1.2) and it notes the Government's support for making best use of existing runways (paras. 1.38-1.39).
    c. The MBU (5 June 2018) [CB/661] – published on the same day of the ANPS, it sets out Government policy on making best use of existing runways. It recognises this could lead to increased carbon emissions and identifies the future publication of an Aviation Strategy, but it goes on to assess the impact of making best use of runways both in a carbon traded and carbon-capped scenario.

20. Contrary to what appears to be suggested in the SFG, there is no national aviation policy relevant to planning which has been promulgated since June 2018.

21. The MBU was summarised by Dove J in *Mr Brian Ross, Mr Peter Sanders (Acting on Behalf of Stop Stansted Expansion) v SST* [2020] EWHC 226 (Admin) at [36]-[41].

Other matters

22. The CCA 2008 as enacted set an overall legally binding target for an 80% reduction of levels of greenhouse gas emissions by 2050 as against 1990 levels. This target was to be achieved through interim (five yearly) legally binding targets known as "carbon budgets". These are macro-level targets which do not legally require individual sectors to achieve particular reductions. The first five budgets excluded IAS emissions from counting towards the targets[2].

23. The CCA 2008 established the CCC as an independent advisory body[3] which would, amongst other things:
    a. advise the Government on levels that carbon budgets should be set and specific policies which should be implemented to achieve them[4]; and
    b. provide yearly progress reports that the Government is required to respond to[5].

24. The CCC's advice on the above matters is not binding on the Government.

25. On 27 June 2019 the CCA 2008 was amended to set a 'net zero' target[6] – that is, an at least 100% reduction of levels of greenhouse gas emissions by 2050 as against 1990 levels.

26. On 9 December 2020, the CCC published its Sixth Carbon Budget advice [CB/695]. It recommended that the Government set Carbon Budget 6 (covering 2033-37) at 965MtCO^{2}e to imply a 78% reduction on 1990 emissions levels by 2035 and covering IAS emissions.

27. On 20 April 2021 the Government announced that it would adopt the CCC's recommended target (including IAS emissions) but not the specific policy recommendations to achieve it [CB/438]. Specific policies to achieve Carbon Budget 6 would instead be set out in forthcoming strategies, principally the Net Zero Strategy to be published before the UN Climate Change Conference (CoP26) in November 2021.

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[2] Carbon budgets are set by reference to ss4-10 CCA 2008
[3] Set up under Part 2 of CCA 2008
[4] Section 34 CCA 2008
[5] Sections 36 and 37 CCA 2008
[6] Section 1 CCA 2008 amended by Climate Change Act 2008 (2050 Target Amendment) Order 2019/1056 art2.(2)

28. On 23 June 2021 (after the impugned decisions) Carbon Budget 6 was given effect by way of the Carbon Budget Order 2021 and came into force the following day.

Key Legal Principles

29. The Panel was required by section 70(2) of the TCPA 1990 to have regard to the provisions of the development plan so far as material to that application. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that a determination "must be made in accordance with the plan unless material considerations indicate otherwise". Consistent with the Council's acceptance that the proposal accorded with the development plan (DL[155] [CD/30]) the proposal fell to be approved unless material considerations indicated otherwise.

30. The Decision Letter is written principally to the parties to the appeal. It is to be read in a reasonably flexible way. An inspector does not need to "rehearse every argument relating to each matter in every paragraph" (*per* Lindblom J at para.6(1) of *St Modwen Developments Ltd v SSCLC* [2017] EWCA Civ 1643).

31. The reasons for a decision must be "intelligible and adequate" and must enable one to understand why the appeal was decided as it was and the conclusions reached on the "principal important controversial issues" (see Lord Brown in *South Bucks District Council and another v Porter (No.2)* [2004] 1 W.L.R. 1953 at p.1964B-G).

32. The weight to be attached to a material consideration is a matter for the decision maker (para.6(2) *St Modwen*).

33. The court should "respect the expertise of the specialist planning inspectors" (*per* Lord Carnwath at para. 25 of *Suffolk Coastal DC v Hopkins Homes* UKSC 37 [2013]).

34. Where it is alleged that a decision-maker has failed to take into account a material consideration, it is insufficient for a claimant simply to say that the decision-maker has failed to take into account a material consideration. A legally relevant consideration is only

something that is *not* irrelevant or immaterial, and therefore something which the decision-maker is *empowered or entitled* to take into account. But a decision-maker does not *fail* to take a relevant consideration into account unless he was *under an obligation* to do so. Accordingly, for this type of allegation it is necessary for a claimant to show that the decision-maker was expressly or impliedly required by the legislation (or by a policy which had to be applied) to take the particular consideration into account, or whether on the facts of the case, the matter was so "obviously material", that it was irrational not to have taken it into account: see *R (Oxton Farms) v Harrogate Borough Council* [2020] EWCA Civ 805 at [8] and *R (ClientEarth) v SSBEIS* [2020] EWHC 1303 (Admin) at [99] applying *R (Samuel Smith Old Brewery (Tadcaster)) v North Yorkshire County Council* [2020] PTSR 221.

35. Merely because a material consideration is not mentioned in a decision does not mean that it can be inferred that it was not taken into account. Reasons need only be given in relation to the main issues in dispute (*Bolton MDC v SSE* (1996) 71 P.&C.R.309 *per* Lord Lloyd at 131-314 and *SSETR v MJT Securities Ltd* [1998] 75 P.&C.R.188 *per* Evans LJ at 198).

36. The interpretation of planning policy is a matter for the Court (*Tesco Stores Ltd v Dundee City Council* [2012] UKSC 13).

37. As noted above, the Planning Court has already considered the MBU policy in relation to Stansted Airport in *Mr Brian Ross, Mr Peter Sanders (Acting on Behalf of Stop Stansted Expansion) v SST* [2020] EWHC 226 (Admin). That case concerned a challenge to the Secretary of State for Transport's decision not to designate the Development that is the subject of the current decision as a Nationally Significant Infrastructure Project. One part of the claim attacked the Secretary of State's decision that the carbon emissions from the Development could "be properly regarded as within the scope of the MBU policy and its analysis" ([114]). There the Claimants submitted that the MBU's modelling was flawed. At [115] Dove J. stated (emphasis added):

> "115. In my view there is considerable force in the Defendant's submission that in reality this aspect of the Defendant's decision was essentially based on reliance on the MBU policy, and that the substance of the Council's case is in fact a challenge to the legality of that policy in disguise (see paragraphs 95 and 96 above). Certainly, the

legality of that policy is now beyond argument. As such I accept that the Defendant was, lawfully, entitled to reach the conclusion which he did, based squarely on the MBU policy that "an increase in the planning cap at [Stansted]…could be adequately mitigated to meet the CCC's 2050 planning assumption". That was a conclusion which applied the provisions of the MBU policy (see paragraphs 38 to 40 above) which had considered that proposals of this scale would not imperil the achievement of climate change targets in the light of the modelling work which had informed the policy. This effectively brings the Council's argument in relation to this point to a close…"

38. Planning conditions must be imposed for a planning purpose, must fairly and reasonably relate to the planning permission and should not be unreasonable (*Newbury District Council v SSE* [1980] 1 All ER 731). The NPPF (2019 version in force at the time of the Decisions) stated:

> "55. Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects…"

Response to Grounds

Ground 1 – Alleged failure to consider policy other than the MBU

39. This ground, and the various sub-complaints expressed under it, is nothing more than an impermissible attempt by the disappointed Council to re-open the merits of the Panel's decision and to rerun its case regarding climate change (albeit the Council had conceded at the inquiry that planning permission should be granted anyway).

40. Before addressing each sub-allegation in turn, the basic point is that it is hopeless to allege that in considering carbon emissions and climate change the Panel failed to consider policies other than the MBU. There is in fact no legal requirement to list every policy considered in a decision in any event, but the allegation is unarguable anyway given the following paragraphs of the DL:

    a. The APF is addressed at DL[14]-[15];
    b. The ANPS is addressed at DL[16];
    c. The NPPF is addressed at DL[82], [101]; and
    d. The development plan is addressed at DL [101].

41. Moreover, it is wholly unclear from the SFG what policy documents the Council is now alleging were left out of account.

42. It is also hopeless to allege that the Panel failed to consider other (non-policy) documents or announcements which the Council contends were relevant to carbon emissions/climate change as part of its decision given that:
    a. The CCA 2008 is addressed at DL[18];
    b. The amendment of the CCA 2008 to include a net zero target is addressed at DL[24] and [94];
    c. The recommendations of the CCC on the Carbon Budget 6 is considered at DL [25] and [90];
    d. The indication from Government that a new target to cut emissions by 78% by 2035 compared to 1990 levels is acknowledged at DL[24], [84] and [94];
    e. The Government announcement (20 April 2021) that IAS emissions will form part of Carbon Budget 6 is acknowledged at DL[19] and [84];
    f. The potential for further change in how aviation emissions are addressed was explicitly considered at DL[20], [24] and [25]; and
    g. The Government intention to set Carbon Budget 6 at 965MtCO^{2}e level recommended by the CCC is acknowledged at DL[88] and [90].

43. The allegations made under this ground therefore fly in the face of the wording of the DL itself. The specific sub-allegations are addressed in turn below.

SFC[111]: The panel failed to take account of the fact that the MBU is "not an aviation policy that is calibrated to net zero"

44. This assertion is without any merit. The Panel expressly recognised the fact that the MBU was published prior to the net zero target at DL[24] and [84]-[94]. The Panel highlighted that despite the net zero target, the MBU itself remains unchanged which is obviously correct. The Panel went on to recognise that it will be for the Government to decide its policy approach

and that this may extend to the alteration of Government policy in the future (DL[24]-[25]). That was an unimpeachable assessment.

45. Further, and in any event, the Panel went on to consider that even if the planning assumption for carbon as a result of aviation were to be reduced as low as 23MtCO^2 (as suggested by the Council's carbon/climate change witness), the emissions as a result of the appeal development would still only be 0.39% of the reduced figure (DL[90]). It concluded that whether the planning assumption in the MBU, or the lower figure argued for by the Council, were used the emissions from the Development would be "a very small proportion" of that figure DL[91]. The Panel therefore both concluded that the proposal was not contrary to planning policy and that it would not significantly affect the Government's statutory responsibilities on climate change in any event in light of the net zero target (DL[101]). This included consideration of the new net zero target.

46. It is clear that the Panel recognised that the MBU pre-dated the net zero target and had not yet changed, but the Panel went further (though they were not required legally to do so) to consider the impact of the proposal as against what the Council were speculating might become a lower planning assumption based upon the new net zero target. The Council's criticisms are therefore totally without merit and impossible to square with the terms of the DL itself.

SFC[112]: The panel misread the MBU in that it does not treat the UK's climate commitments as set in stone and does not "remove carbon emission issues as part of local planning application processes"

47. Again, these allegations are totally without merit. First, the Panel did not treat the MBU as setting the "UK's climate commitments as set in stone"; the Council fails to identify where this is said to occur. It is clear from the Panel's consideration of developments promulgated after the publication of the MBU that the Panel did not treat the MBU in this way. In any event, those developments did not undermine the MBU's status as national policy. The Panel correctly noted that the MBU had not been amended and remained government policy (DL[24]). It was entitled to give such weight to it as it chose in the exercise of its planning judgment.

48. The second part of the allegation is a complaint about DL[23], which states:

> "Consistent with the APF, MBU differentiates between the role of local planning and the role of national policy, making it clear that the majority of environmental concerns, such as noise and air quality, are to be taken into account as part of existing local planning application processes. Nonetheless, it adds that some important environmental elements should be considered at a national level, such as carbon emissions, which is specifically considered by MBU. The Council apparently understood this distinction in resolving to grant planning permission in 2018. However, it subsequently changed its position, deciding that carbon is a concern for it as local planning authority despite MBU, and this led, at least in part, to the refusal of planning permission, as well as to its subsequent case as put at the Inquiry." [CB/8]

49. Once again, this paragraph is unimpeachable as an assessment by the Inspectors, as can be seen from the content of MBU: paras 1.11 and 1.12 [CB/666] and 1.22-1.24 [CB/669].

50. But in any event, the Council's criticisms go nowhere. The Panel did not leave carbon impacts and climate change out of account when considering the Development. This is clear from DL [14]-[25] and [82]-[102]. The Panel ultimately concluded that carbon emissions weighed against the Development, albeit to a limited extent (DL[153]). That was a matter for their judgment.

SFG[112(3)]: The Panel afforded the MBU "an eminence it does not have"

51. It is entirely unclear what error of law (if any) is alleged here. In reality, it can only be an allegation that the Panel ascribed too much weight to the MBU. The weight to be ascribed to the MBU fell squarely within the Panel's exercise of judgment in accordance with well-established principles. As has been addressed above, the Panel did not fail to consider policies and developments relating to climate change but not included within the MBU, quite the opposite.

52. SFG[112(3)] then lists a number of other documents/announcements. It is unclear what the Council is in fact alleging with regards to these documents. Some are explicitly addressed in the DL (e.g. the amendment to the CCA 2008 at DL[24] and the CCC's Sixth Carbon Budget advice at DL[25]). As for others, the Council does not set out what they contend their

particular relevance is, let alone provide any support for what appears to be an allegation that they were not taken into account.

SFG[113]: The Panel treated the MBU as conclusive of the climate change/carbon analysis

53. Again, this is another allegation which is untenable in light of the DL itself. The Panel's considerations clearly went beyond the MBU. In reality this is nothing more than a poorly disguised attack on the judgments that the Panel made as to the weight to attach to the MBU and the Panel's conclusions about climate change/carbon in respect of this development.

54. The MBU is current government policy relevant to the determination of the Development application. The Panel was entitled to give weight to it. Further, and in any event, the Panel did not treat it as conclusive of the climate change/carbon analysis. As noted above, amongst other things, the Panel went on to consider the application against a reduced planning assumption suggested by the Council in light of the net zero target and the CCC's Sixth Carbon Budget advice.

55. This is nothing more than a complaint about the weight which the Panel ultimately gave to the MBU and to carbon emissions. There is no arguable basis for suggesting that the Panel's judgments were irrational.

56. The Council raises a further complaint as regards DL[93] at SFG[113(3)]. It alleges that the Panel used a "first come first served" logic which they contend finds no support in the MBU. This is a similarly hopeless criticism. The fact that no examples of MBU-type development had been approved since the publication of the MBU document (possibly apart from Southampton Airport as the Panel identified) was a matter that the Panel was entitled to take into account. The SFG gives no reason why such a consideration could be said to be legally irrelevant.

SFG[114]: The approach of the Panel was in contrast to that taken by the Secretary of State in relation to Manston Airport who recognized that "making best use of existing runways was subject to environmental issues being addressed"

57. This allegation appears to be founded on the earlier erroneous assertion that the Panel failed to take carbon emissions into account as part of its decision. That allegation has been addressed above and is without merit. The Panel also obviously dealt with other environmental issues that had been raised.

58. In any event, the Claimant's reliance upon Manston Airport proposals is misplaced. At footnote 6 of the DL the Panel explained why the Manston Airport scheme was not comparable to the Development. It was a Development Consent Order scheme which involved an unused airfield (i.e. not an expansion of an existing operation) and was a cargo-led proposal.

59. The Council appears to be relying upon the Secretary of State's DL for the Manston Airport proposals (paras. 21 and 63) and the Examining Authority's report (at IR 5.5.28 and 6.5.71) in respect of them in order to assert that the Panel in this case somehow took an inconsistent position; but that is clearly not the case as can be seen from the paragraphs to which reference is made.

60. The ExA for the Manston Airport proposals took the view that the carbon emissions from that scheme (which would not have been part of the assumptions in the MBU) comprising "730.1 $KtCO^2$ per annum ie 1.9% of the total UK aviation carbon target[7] of 37.5 Mt CO^2 for 2050", would have a material impact on the ability of Government to meet its carbon reduction targets, including carbon budgets, so weighing "against the granting of development consent." [CB/454]. The Council fail to refer to the fact that in respect of that scheme, at DL[65] the Secretary of State afforded "climate change" moderate weight against the Manston Airport proposals in the planning balance [CB/469]. The Manston Airport application would have involved using a far larger portion of the carbon planning assumption (1.9% – see Manston IR 6.5.1 [CB/454]) than that which was in issue before the Panel for STAL's proposal (0.24% – see the Panel's DL[88] [CB/18]). There is therefore no inconsistency at all. The Panel attributed "limited weight" to carbon emissions for STAL's proposals at DL[153] [CB/29]. The Secretary of State attached moderate weight to the far larger emissions that

[7] By which the ExA means the "planning assumption".

arose from the proposals for Manston Airport. The carbon emissions from the Manston Airport proposals were eight times greater than those from STAL's proposal.

Ground 1 – Overall

61. None of the complaints, either individually or cumulatively, amounts to arguable errors of law. This ground is totally without merit.

Ground 2 – Erroneous rejection of Condition 15

62. Under this ground the Council attempts to re-run its case for the imposition of Condition 15 which was rejected by the Panel. The allegations it advances are totally without merit.

63. In summary the Panel rejected Condition 15 because it decided:
    a. a condition limiting carbon emissions was not necessary having regard to the headroom in the carbon budgets for IAS emissions and the minimal impact of non-IAS sources of emissions (DL[140]);
    b. there was no evidence that the ability of future generations to meet their own needs from this Development would be compromised (DL[141]);
    c. there was no policy basis for reassessing carbon emissions in light of any potential future change of policy, and the condition would be likely to seriously undermine the certainty of the planning permission (DL[142]); and
    d. the proposed condition was not necessary or reasonable (DL[142]).

64. The Panel therefore applied the correct legal and policy tests and exercised its planning judgment in light of them. This ground of challenge is no more than an attack on the merits of that planning judgment. In any event, the Panel's decision on the condition is wholly unsurprising. Having found the effects of the Development acceptable in light of the conditions that the Panel did impose, it was clearly unnecessary to impose an additional condition to control the Development in the way suggested. The Panel was clearly entitled to conclude that imposition of a condition attempting to limit the throughput of the Airport in circumstances where it had judged the expansion represented by that increase in throughput

to be was acceptable in planning terms would have been unreasonable. The judgment of the Panel was unimpeachable. The sub-allegations are addressed in turn below.

SFC[123(1)]: Other than Condition 15 there was nothing before the Panel that would allow future generations to ensure that as passenger numbers escalated the development would meet contemporary environmental standards and the Panel had no basis for the statement that there was "no evidence that [the Development] would compromise the ability of future generations to meet their own needs"

65. This point is misconceived and ignores the Panel's findings that the Development proposed was acceptable in light of existing policy. The Council is essentially asserting that the Panel ought to have provided for the Development to be re-considered in the future against unknown, unidentified and unformulated policy on the basis of the Council's speculation that policy may change. That approach is fundamentally misconceived. Indeed, if it were correct, it could apply to any grant of planning permission on the basis that the policy/legislative/planning context may change. There is simply nothing in either the statutory framework, the development plan policy or any other policy which would justify such an approach.

66. Moreover, and in any event, the Panel explicitly considered whether the proposal would compromise the ability of future generations to meet their own needs and found that there was no evidence that it would do so (DL[141]). This was a matter for the Panel's judgement which was patently exercised rationally.

SFC[123(2)]: There was a policy basis for seeking to reassess noise, air quality or carbon emissions against any potential change of policy that might occur in the future

67. The Panel expressly addressed NPPF at DL[141]. As for the other policies listed, none of them supports the idea of an application have to be reassessed at a future point in light of potential changes in policy and legislative requirements in the future.

SFC[123(3)]: The phasing of environmental requirements is supported by Government policy (ANPS para. 120, DFT Aviation 2050 para. 3.14 and Clean Air Strategy paras. 7 and 30)

68. In addition to the flawed approach of the Council as to what constitutes policy, none of the documents provide policy support for Condition 15 and the Council does not set out how they do so.

SFC[123(4)]: Condition 15 did not require periodic reassessment and approval against new and unknown policy guidance

69. It is not clear what error is being asserted. If it is an alleged error of fact it would need to meet the *E v SSHD* [2004] EWCA Civ 49 tests, including that the disputed fact is not in dispute (which would not be the case here). But quite apart from this basic difficulty in the allegation, it is misconceived.

70. Clauses 5 and 6 of Condition 15 would have required STAL to submit new environmental information to the Council in the future, which the Council would then evaluate under clause 9 taking into account legislation, international instruments and policies in the future. This was clearly proposing a reassessment and approval process against new and unknown policy guidance in the future. No arguable error of approach by the Panel has been identified in the Panel's assessment.

SFC[123(5)]: The Panel failed to explain how the condition would seriously undermine the certainty that the permission could be fully implemented

71. This point is self-evidently misconceived. The Panel at DL[142] articulated the basic point that imposition of the condition would be likely to seriously undermine the certainty that a planning permission should provide that the development could be implemented. That refers to what it had already stated was the effect of the proposed condition in the first part of DL[142]. And it is obvious that is the case. That was, of course, one of the stated fundamental concerns by STAL. The reasoning is clear. There is no requirement to give reasons for reasons. The requirement for periodic reassessment would clearly create uncertainty as to whether the development could be fully carried out in the future.

SFC[123(6)]: The Panel "unfairly" characterised Condition 15 as seeking to reassess noise, air quality or carbon emissions in light of any potential change in policy which might occur in the future

72. "Unfair characterisation" is not itself an error of law. The Council does not allege that the Panel misunderstood the condition. The Panel clearly did not. There is no arguable error of law in the DL[142]. In any event, the Panel's characterisation of Condition 15 was not "unfair" anyway. Condition 15 clearly required any re-assessment process to take place in light of the legislation and policy in force at the time the assessment was made which may well be different from that currently in force.

SFC[123(7)]: The Panel failed to address the fact that Condition 15 accommodated the uncertainties that were inherent in the passenger number forecasts

73. The Panel concluded, as a matter of judgment, that Condition 15 was unreasonable and unnecessary. There was no requirement to accommodate what the Council now contended to be uncertainties in the passenger numbers. But the point is misconceived anyway as the DL records that the Council "did not dispute the appellant's position on forecasting, concluding that the predictions were reasonable and sensible" (DL[27] [CB/9]). On the Council's own case there clearly was no good reason to impose a condition catering for uncertainties in passenger numbers.

Ground 2 – Overall

74. None of the complaints, whether considered individually or cumulatively, amounts to an arguable error of law. This ground is totally without merit.

Ground 3 – "Unprincipled costs award"

75. The allegation that a decision is "unprincipled" does not amount to any recognised error of law. The same is true of any asserted "methodological mistake" (SFG[143] [CB/37]). Notwithstanding this, each of the eleven alleged "mistakes" is addressed below.

76. In reaching its costs decision, the Panel was exercising its judgment as to whether the Council's behaviour had been unreasonable or not. A decision whether or not to make an award of costs is pre-eminently a discretionary matter and the Inspector who actually hears the evidence is in the best position to judge; only very rarely would it be proper for a Court to strike down such an exercise of discretion: see *Calding v SSCLG* [2012] EWHC 1656 (Admin).

77. The key facts relied upon by the Panel were:
    a. The Council initially resolved to grant permission but more than a year later reconsidered its position and refused permission (CDL[13]);
    b. Despite advice from its own officers that there were no material changes in policy or circumstances which would justify a different decision the Council refused permission (CDL[15]);
    c. At no time did the Council request any additional information from STAL which might have overcome any concerns (CDL[16]);
    d. The reasons for refusal were "vague and generalised" and the issues relied upon at the appeal "could not reasonably have been expected to materially alter the favourable planning balance" (CDL[17]);
    e. The Council's witnesses individually accepted that the issues raised could be overcome by conditions or obligations and its planning witness accepted in written evidence that the development was acceptable in planning terms overall (CDL[21]);
    f. Condition 15 was unnecessarily onerous and misconceived and patently failed to meet the relevant tests (CDL[21]); and
    g. The strength of evidence in favour of the proposal was such that the application should clearly have been granted planning permission (CDL[22]).

78. As can be seen from the above, the circumstances of the Council's refusal of STAL's application for the Development, and the case run at the Inquiry mean that not only was that judgment of the Panel exercised rationally it was unsurprising.

79. The 11 separate complaints are considered in turn below.

SFC[14.3(1)]: The Panel was heedless of the Guidance that "applications for costs should be made as soon as possible"

80. The Panel expressly considered the PPG guidance that a costs application should be made as soon as possible (CDL[9]). It is hopeless to suggest that the Panel was "heedless of the guidance". There is nothing in the guidance which states that if an application could have been made sooner then the application should be refused. As the Panel note at CDL[10] the PPG is "guidance rather than statute and should not be interpreted in an overly legalistic manner".[8]

81. It is notable that the Council does not explicitly allege procedural unfairness (though it appears to be hinted at). There is no basis for any complaint. The Panel turned its mind to the procedure for considering the application (CDL[11]). It noted that it had heard much from the Council during the Inquiry about the reasonableness of its conduct and conclusions and therefore there was nothing to be gained from hearing further evidence. The Council was given four weeks to respond to STAL's costs application. The Council does not set out what evidence it could not have produced in writing but which required oral submissions. This is no more than the complaint of a party who disagrees with the merits of a decision having been given more than a fair opportunity to put its case, but which case was rejected.

SFC[14.3(2)]: The Panel contradicted itself by saying it was "not unreasonable to wait until the conclusion of the evidence" when it stated that the application could have been made earlier

82. These statements are patently not contradictory. As is clear from CDL[9] whilst the Panel considered the application could have been made earlier it was "not unreasonable to wait for

[8] *Solo Retail Ltd v Torridge DC* [2019] 489 (Admin)

the conclusion of evidence in anticipation that the Council might yet substantiate its case and obviate the need for a costs application".

SFC[14 3(3]: Failed to take into account or explain rejection of the Council's submissions on timing of the application

83. There is no substance in this. The Panel set out the Council's submissions on this issue at CDL[7]. They then clearly explained why they rejected the Council's case on the timing of the application at DL[9]-[12]. That reasoning is not repeated here.

SFC[14 3(4)]: Mischaracterized the Council's reasons for refusal as "opaque" without identifying what was missing or obscured

84. Again, there is no substance to this. A key criticism of the Council's conduct was its reversal of position between 2018 and 2020 without robust justification, without seeking additional information and contrary to officer advice (CDL[13]-[16]). The Panel was entitled to conclude that the reasons were not clear. The Panel's reasoning at CDL[17]-[19] addresses each reason for refusal. The Council fail to deal with the basic point that it conceded that planning permission should have been granted.

SFC[14 3(5)]: Omitted to mention the Council's third ground for refusal before criticising all grounds for refusal as unquestionably vague or opaque

85. This repeats the above allegation and is similarly without merit. The reasoning is clear in the CDL[18]. The reasons for refusal itself sought to rely on "general accepted perceptions and understandings of the importance of climate change". The Panel relied on this to state that the reason was unclear and opaque. There is nothing irrational in that judgment. Indeed, it is unsurprising.

SFC[14 3(6)]: Misstated the Council's appeal evidence, which was not that planning permission should be granted but that with Condition 15 in place planning permission should be granted

86. CDL[17] states "the Council's own appeal evidence was that the planning balance was favourable, such that planning permission should be granted". Whether or not this was dependent upon Condition 15, it was fundamentally different to the decision which the Council took which was to refuse the scheme. It was clearly a highly material consideration which the Panel was entitled to give weight to. The Council simply fail to deal with the fact that it is trite that planning permission should not be refused where a condition can be imposed to address the local planning authority's concern.

SFC[14 3(7)]: Confused credibility of position with vagueness

87. It is entirely unclear what error of law is alleged here. None can be discerned. This is no more than disagreement with the assessment of the Panel as to the vagueness of the Council's position.

SFC[14 3(8): Repeated its mistakes in relation to Condition 15 and therefore failed to take into account the reasonableness of the Council in offering Condition 15 as a way through

88. Condition 15 was offered at the point of exchange of proofs. The Panel found it not to meet the relevant tests and therefore unlawful. They were entitled to reach that judgment. It does not involve any "mistake" and the allegation of a "mistake" is not articulated in a way which sounds as a ground for challenge. The Panel took account of their judgment about Condition 15 in reaching their judgment as to costs. Neither judgment was irrational. Indeed, it is unarguable to suggest that offering what the Panel identified as an unreasonable and unlawful condition could militate against the order of a costs award.

SFC[14 3(9)]: Wrongly excluded the Council's consideration of policy changes and the 'direction of travel'

89. CDL[22] identifies that the Council's reliance "on a perceived direction of travel in policy or emerging policy that may never come into being in the form anticipated is not a sound basis

for making planning decisions". That was pre-eminently a matter for the Panel's judgment. It is clearly not irrational. In any event, such a conclusion is unsurprising anyway.

SFC[143(10)]: Relied on the "strength of evidence in favour of the proposal" to conclude that the application should clearly have been granted planning permission by the Council when the vast majority of evidence post-dated the Council's decision

90. There is nothing in CDL[22] which indicates that the Panel were only considering evidence which became available post-decision.

91. The Council was advised at the time of the decision that there was no policy basis for its change in position at the time (CDL[15]). It is notable that the Panel's judgment appears to accord with that of the Council's own officers. There is nothing irrational in the judgment of the Panel.

SFC[143(11)]: Made no adjustment for the time that was attributable to STAL in dealing with Stop Stansted Expansion's case

92. The Panel's decision was made on the basis that the application should never have been refused. If it had not been refused then Stop Stansted Expansion (or any other party) would not have been able to cause the expenditure of costs at an inquiry. As such, there was nothing unreasonable about the full award being made. Again, this was a matter for the Panel's judgment, and it was not exercised irrationally.

Ground 3 – Overall

93. The '11' complaints do not disclose any error(s) of law. This ground is totally without merit.

Simplex

94. Even if any of the Council's allegations were arguable, permission ought to be refused on the basis that neither decision would have been different had the alleged error not been made (per *Simplex* set out above). The Council's own witnesses accepted that permission should be granted for the scheme (CDL[21]). The decision to refuse was taken contrary to the professional advice of the Council's own officers (CDL[15]). The proposed "Condition 15" patently did not meet the policy tests. As such, it is inconceivable that the decisions would have been different were any of the Council's complaints to be made out.

Costs

95. The Defendant claims his costs of preparing this Acknowledgement of Service in the sum of £16,843 as per the attached schedule.

JAMES STRACHAN QC
VICTORIA HUTTON
39 Essex Chambers
2 August 2021

Statement of Costs
(summary assessment)

In the High Court of Justice	
Queen's Bench Division	
Planning Court	
Case Reference	CO/2356/2021

Judge/Master

Case Title Uttlesford District Council v Secretary of State for Housing, Communities & Local Government (IP) Stansted Airport Ltd (2) SSE & Others

Defendant's Statement of Costs

Description of fee earners	Rate
(a) (name) (grade) (hourly rate claimed)	Gary Howard (SCS) £260.00
(b) (name) (grade) (hourly rate claimed)	Claire Jones (Grade 6 Lawyer) £260.00
(c) (name) (grade) (hourly rate claimed)	Emel Djevdet (Grade 6 Lawyer) £260.00
(d) (name) (grade) (hourly rate claimed)	Mark Colautti (Grade 7 Lawyer) £170.00
(e) (name) (grade) (hourly rate claimed)	Aerm Sunil (Administrative Officer) £110.00
(f) ( )e) (grade) (hourly rate claimed)	
(g) (name) (grade) (hourly rate claimed)	
(h) (name) (grade) (hourly rate claimed)	
(i) (name) (grade) (hourly rate claimed)	

Attendances on Client

Personal Attendances

(a) *(number)*		hours at £		£	
(b) *(number)*		hours at £		£	
(c) *(number)*		hours at £		£	
(d) *(number)*		hours at £		£	
(e) *(number)*		hours at £		£	
(f) *(number)*		hours at £		£	
(g) *(number)*		hours at £		£	
(h) *(number)*		hours at £		£	
(i) *(number)*		hours at £		£	

Letters out/Emails

(a) *(number)*		hours at £		£	
(b) *(number)*	0.6	hours at £	260.00	£	156.00
(c) *(number)*		hours at £		£	
(d) *(number)*	2.7	hours at £	170.00	£	459.00
(e) *(number)*		hours at £		£	
(f) *(number)*		hours at £		£	
(g) *(number)*		hours at £		£	
(h) *(number)*		hours at £		£	
(i) *(number)*		hours at £		£	

Telephone

(a) *(number)*		hours at £		£	
(b) *(number)*		hours at £		£	
(c) *(number)*		hours at £		£	
(d) *(number)*		hours at £		£	
(e) *(number)*		hours at £		£	
(f) *(number)*		hours at £		£	
(g) *(number)*		hours at £		£	
(h) *(number)*		hours at £		£	
(i) *(number)*		hours at £		£	

Attendances on opponents (including negotiations)

Personal Attendances

(a) *(number)*		hours at £		£	
(b) *(number)*		hours at £		£	
(c) *(number)*		hours at £		£	
(d) *(number)*		hours at £		£	
(e) *(number)*		hours at £		£	
(f) *(number)*		hours at £		£	
(g) *(number)*		hours at £		£	
(h) *(number)*		hours at £		£	
(i) *(number)*		hours at £		£	

Letters out/Emails

(a) *(number)*		hours at £		£	
(b) *(number)*		hours at £		£	
(c) *(number)*		hours at £		£	
(d) *(number)*	0.5	hours at £	170.00	£	85.00
(e) *(number)*		hours at £		£	
(f) *(number)*		hours at £		£	
(g) *(number)*		hours at £		£	
(h) *(number)*		hours at £		£	
(i) *(number)*		hours at £		£	

Telephone

(a) *(number)*		hours at £		£	
(b) *(number)*		hours at £		£	
(c) *(number)*		hours at £		£	
(d) *(number)*	0.2	hours at £	170.00	£	34.00
(e) *(number)*		hours at £		£	
(f) *(number)*		hours at £		£	
(g) *(number)*		hours at £		£	
(h) *(number)*		hours at £		£	
(i) *(number)*		hours at £		£	

Attendances on others: Counsel, Court, Co-Defendants, Interested Party

Personal Attendances

(a) *(number)*		hours at £		£	
(b) *(number)*		hours at £		£	
(c) *(number)*		hours at £		£	
(d) *(number)*		hours at £		£	
(e) *(number)*		hours at £		£	
(f) *(number)*		hours at £		£	
(g) *(number)*		hours at £		£	
(h) *(number)*		hours at £		£	
(i) *(number)*		hours at £		£	

Letters out/Emails

(a) *(number)*		hours at £		£	
(b) *(number)*		hours at £		£	
(c) *(number)*		hours at £		£	
(d) *(number)*	4.2	hours at £	170.00	£	714.00
(e) *(number)*		hours at £		£	
(f) *(number)*		hours at £		£	
(g) *(number)*		hours at £		£	
(h) *(number)*		hours at £		£	
(i) *(number)*		hours at £		£	

Telephone

(a) *(number)*	2	hours at £	260.00	£	520.00
(b) *(number)*	1.6	hours at £	260.00	£	416.00
(c) *(number)*		hours at £		£	
(d) *(number)*	2.1	hours at £	170.00	£	357.00
(e) *(number)*		hours at £		£	
(f) *(number)*		hours at £		£	
(g) *(number)*		hours at £		£	
(h) *(number)*		hours at £		£	
(i) *(number)*		hours at £		£	

Site Inspections etc.

(a) *(number)*		hours at £		£	
(b) *(number)*		hours at £		£	
(c) *(number)*		hours at £		£	
(d) *(number)*		hours at £		£	
(e) *(number)*		hours at £		£	
(f) *(number)*		hours at £		£	
(g) *(number)*		hours at £		£	
(h) *(number)*		hours at £		£	
(i) *(number)*		hours at £		£	

Work done on documents, as set out in schedule: £7,147.00

Attendance at hearing:

(a) *(number)*		hours at £		£	
(b) *(number)*		hours at £		£	
(c) *(number)*		hours at £		£	
(d) *(number)*		hours at £		£	
(e) *(number)*		hours at £		£	
(f) *(number)*		hours at £		£	
(g) *(number)*		hours at £		£	
(h) *(number)*		hours at £		£	
(i) *(number)*		hours at £		£	
(e) Fixed Costs				£	

(a) *(number)*		hours travel and waiting time £		£	
(b) *(number)*		hours travel and waiting time £		£	
(c) *(number)*		hours travel and waiting time £		£	
(d) *(number)*		hours travel and waiting time £		£	
(e) *(number)*		hours travel and waiting time £		£	
(f) *(number)*		hours travel and waiting time £		£	
(g) *(number)*		hours travel and waiting time £		£	
(h) *(number)*		hours travel and waiting time £		£	
(i) *(number)*		hours travel and waiting time £		£	

Sub Total £ £9,888.00

* 4 grades of fee earner are suggested:
(A) Solicitors with over eight years post qualification experience including at least eight years litigation experience.
(B) Solicitors and legal executives with over four years post qualification experience including at least four years litigation experience.
(C) Other solicitors and legal executives and fee earners of equivalent experience.
(D) Trainee solicitors, para legals and other fee earners.
"Legal Executive" means a Fellow of the Institute of Legal Executives. Those who are not Fellows of the Institute are not entitled to call themselves legal executives and in principle are therefore not entitled to the same hourly rate as a legal executive.

Brought Forward	£9,888.00

Counsel's fees *(name) (year of call)*

James Strachan QC (1996) & Victoria Hutton (2011)

Fee for [advice/conference/documents]	£6,955.00
Fee for hearing	

Other expenses

Court fees	
Others (give brief discription)	

Total	£16,843.00

Amount of VAT claimed

on Solicitors and Counsel's fees	
on other expenses	
Grand Total £	£16,843.00

~~The costs stated above do not exceed the costs which the [party] is liable to pay in respect of the work which this statement covers.~~ (See CPR 44 PD 9.5(3)(d)) Counsel's fees and other expenses have been incurred in the amounts stated above and will be paid to the persons stated.

Signed:	For The Treasury Solicitor
Date:	02/08/2021

SCHEDULE OF DOCUMENTS

	Description of work (one line only)	(a) Hours	(b) Hours	(c) Hours	(d) Hours	(e) Hours	(f) Hours	(g) Hours	(h) Hours	(i) Hours	Total Hours
1	Reading and reviewing new case papers	0.5	1.4	0.4	0.5						2.8
2	Reading claim documents / bundles including statement of facts and grounds		0.7		17.5						18.2
3	Preparing instructions to counsel				7.2						7.2
4	Preparing for conference with Counsel & drafting notes of conference with counsel	0.5			4.2						4.7
5	Reviewing and considering Second interested party Application Notice for extension of time				0.6						0.6
6	Drafting letter to second interested party solicitor				0.8						0.8
7	Preparing letter to court				0.6						0.6
8	Preparing supplementary claim bundle for counsel				1.8						1.8
9	Drafting Acknowledgment of Service				0.3						0.3
10	Drafting and considering summary grounds of defence				2.8						2.8
11	Drafting & reviewing statement of costs					0.6					0.6
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	Total Sum	£ 260.00	£ 546.00	£ 104.00	£ 6,171.00	£ 66.00	£ -	£ -	£ -	£ -	£7,147.00