

**Transcript of Recording taken at
Public Compensation Meeting held jointly by
Friends of the Earth & SAEN
6th July 2012
Leigh Community Centre, Elm Road, Leigh-on-Sea**

Kiti Theobald & Jon Fuller introduced themselves, explained the purpose of the meeting and then handed over to Chris Hunt of Hunt Scott, Chartered Surveyors

(Q = Questioner or question)

GUEST SPEAKER: Chris Hunt – Chartered Surveyor

INTRODUCTION:

Why is a surveyor taking about compensation rather than a solicitor? It is because compensation claims are assessed on property valuation. Solicitors are more used to working with 'words' and surveyors are more used to working with claims.

Chris's Resume: I worked in a London firm of Chartered Surveyors where the Head of the Valuation Team was on the Royal Institute of Chartered Surveyors (RICS) Compensation Team and an expert in compulsory purchase. Chris worked on the M25 widening scheme; dealt with all the acquisitions on the M2/A2 in Kent; acquisitions for the Heathrow 5 access roads. He also acted for hundreds of residents around Heathrow who had voluntarily sold their property to BAA. BAA recognised a good thing and offered to buy peoples' houses at market value plus 10% and although BAA don't have permission for a 3rd runway, BAA owns the properties/land to do whatever they want and should permission be granted for a 3rd runway, already own the land. Chris is also working for several hundreds of people within the vicinity of the privately owned Farnborough Airport that is now at the Land Tribunal because the compensation offer has been withdrawn.

The 1973 Land Compensation Act gives residents certain rights against developments i.e. new roads, airports etc it is deemed by Parliament that you should have the right to claim. Not everything is covered though: the MOD, Crown, Schools are immune from the 1973 Act as Parliament deems these to be in the public interest and trumps the 1973Act. One example is if your neighbour has planning permission to build an extension and paints it pink & yellow; it may look awful but you cannot do anything about that. Should your neighbour hold noisy parties you can call the police or environmental health, something should happen. The same thing with a new road or airport, you don't get compensation for what it looks like but you can get compensation for the noise impact and adverse impact.

What the Act says: if you are affected by these defined factors of noise, dust, vibration, lighting, solid & liquid discharge; this could be dust, oil, rainfall that's pushed off the new development, especially when drainage problems have not been addressed and water encroaches onto your property, you can claim for the valuation effect of that. The total impact will be the visual impact, the threat of a road/plane crash, the prospect of undefined further expansion. For airports, it's not just the noise coming from the airport but includes the reasonable noise of planes overhead. Compensation is assessed by set criteria and claims must wait one-year from the date of completion (when the development is up and running) and that date becomes the 'claim date' and 'valuation date'.

The physical factors are the first date when it opened. If on that claim date you know there will be 20,000 flights a year that is 'what you know'. If, in the course of discussing the claim, the airport could put in an application to increase the number of flights that is 'unknown'. It that's not known about at the first claim date that is only speculation so you cannot really take account of that; but if there were an agreement that limits the number of flights per year at the airport supposed by reference to a noise contour then it can reasonably say that that noise contour is what the airport is aiming to achieve. You then get into a debate over the noise of each claim and the number of claims that can be fitted into that noise contour. Noise contours are averages and by effectively changing that noise from a single event noise into an average, it obviously brings down the average. So you could have planes that produce 89-90 dBs as they fly over subsumed/contained within a noise contour of 54-55 dBs. At the end of the day it's how does 'Joe Public' interpret that noise and the affect on pricing and value of the property? So individually you may be upset by the noise but if the airport expands and employs

more workers and house prices increase, the Act doesn't give you any compensation because you haven't lost out in a financial sense. That's the downside of the Act. But, against that, the Act is fair because when it comes to compensation the Act doesn't differentiate between properties where there may only be one occupant, who could be deaf and unable to hear the noise at all, and other properties where multiples of occupants reside; they will, in theory, all get the same level of compensation because it is awarded on the effect of the value of that property at that location.

How do we interpret that affect?

We look at 'scene evidence': What have they paid on other schemes? What is the sales evidence here? At Heathrow there is a lot of extraneous noise from local roads & motorways/M25, general hubbub, noise from planes en-route to other destinations whereas in a more rural area that single point of noise, of vibration & of dust is going to have a greater impact. So if the impact is there it's more likely to say that's the cause, whereas in a 'London-type' area there is a myriad of other causes that make an impact. You also have to take into account the other side could simply deny the claims. What could be done then? You could go to the Land Tribunal. That's a threat that hangs over both sides because at the Tribunal usually whoever loses pays the legal costs of the other side. So you would only go to Tribunal if you are certain of your case or if you've got a lot to lose and you would rather try to outwit, scare, delay, (usually that's from a certain side), the claimants so you don't pay as much at the end of the day. If you are facing a legal bill, the experience is a third to half of claimants don't want to go to the next stage.

Against that you can obtain insurance and there are specialist insurance companies who will look at the facts and they can offer "After The Event Insurance" (ATEI). This is a good thing, if you can get it, because it means if you lose the insurance policy pays the premium. If you win the other side pays the costs. It's very loaded and if you can get ATEI, usually en-masse rather than individually, it sends a very strong message to the other side that there is confidence in you case and that often brings the other side to the negotiating table whereas before they stalled and tried not make any payment.

Referring back to Farnborough and the change of approach there, the other side might be reasonable and may well have costed compensation as part of their payment. Normally for a rates scheme the Highways Agency or the County Council will have that element built into their costing & budgeting because they are aware of the legal implications of the Act and they see it as a public duty. If they are inflicting noise on you they will pay because they know the public benefit justifies that.

Airports prior to 1973 were more state run. Increasingly, they are privately run and so airports are more careful how they spend their shareholders' money, but the Act applies whether they are state run or privately run. In fact for airports the compensation authority, the one who pay the bill, is actually defined as 'the person or authority' who managed the works', normally that's the airport company themselves.

If they cannot agree on a completion date, that a year later becomes the claim date, you can serve a 'Section 15 Notice' on them, which is a legal notice they have to respond to. It says: "*when did you finish the work? By the way that date will be used for the claims*". If they fail to respond there are certain things the Secretary of State can do to force them or he can issue a statement on their behalf. But the Sec of State has 'a discretion' to intervene. If he doesn't want to intervene or feels there is an argument as to when the works were completed that can be decided by the Land Tribunal whose decision on such things is usually binding. Normally everyone knows when the work is completed, as the airport is keen to use the facilities and will announce the opening. Sometimes they may have a planning permission that is implemented in phases. It could be extending the runway, warehousing, ancillary parking all tied up with the initial planning consent and it is important to get the correct date of the completion to further a claim.

There are exceptions to the 1-year rule. One is if you are moving in the first year. You can reserve your right to compensation. Again there are time-scales when putting your claim in. The claim must be lodged between exchange of contract and sale completion – that period when you are legally able to sell your house. You cannot put a claim in before the year; the airport can say wait the year. You cannot claim after completion, as you are no longer the owner. Your claim is then registered with the airport authority or agent and is locked away until the claim date, when your claim is actioned along with all the others. The new owner does not have the right to compensation on this first claim. Sometimes when the buyer knows about the claim they may try to re-negotiate a lower purchase price. My advice is to be wary of this as (1) you have suffered the loss & (2) the purchase price already reflects the pivotal factors so they are getting value for money. It can muddy the water by saying

it's a pivotal factor plus a bit again but that is talking down the compensation for everybody else and is unfair to what the total impact was.

Of course the vendor wants the sale to complete. If you do agree to share the compensation it is useful to get it in writing. So when analysing the promises we know whether there is a double discount or in fact you could argue the discount is less because the purchaser is actually getting some compensation on top so the net price being paid is even lower.

Negotiating Phase: The Act says you have 6-years to negotiate. Why should people negotiate then? Because you are earning statutory interest on top of your claim. At the moment interest rates are very low. Normally it's an incentive, as if the other side has to pay money, to try to resolve claims quickly as interest adds up. Compensation is tax-free, interest is paid gross so taxpayers have to declare it on their tax returns & pay tax on it. If you haven't resolved it within 6-years, you can, if your argument & case is strong, refer it to the Land Tribunal. That effectively saves your claim and it can take as long as the Land Tribunal takes to resolve it; that 6-year period is no longer valid as it is now in the hands of the Court. My experience of the workings of the Land Tribunal Court is much quicker than it used to be. It used to be 3-years for a claim to work through, now it is months, it's all part of a big push to speed things up. It can be in the claimant's interest to slow things up if waiting for further evidence to come through. I won't name any airport where we are doing that at the moment but it seems to be a good tactic. The Land Tribunal, in my experience, is extremely fair. If the other side is being mean that will come out in the Tribunal. The Tribunal is usually made up of a Surveyor, sometimes with a solicitor who is very good on the law; sometimes you get three people. For the Farnborough Tribunal there is just the President who is a Chartered Surveyor who knows his stuff; and can cross-examine both sides. So that is why you only go there if you have good evidence.

To bring things together, I would say whomever you get to put your claims in, make sure you see a copy of the claim before it is submitted, so that you are happy with the claim figure. Normally the claim figure allows for an element of compensation so just because they are claiming a nice big sum, don't start going on holiday because (a) it might take a few years and (b) I would be surprised if you received the full amount. It's all part of the negotiating. If you claim £5 the other side will offer £2. They can then justify their actions to their shareholders saying they made a big saving & didn't pay all the claims. Everyone, hopefully, comes away slightly happy.

I would also say if it looks like things are going to the Land Tribunal make sure you are all united. Make sure you have a solicitor & barrister at that stage. Explore the insurance protection. Engage a barrister who will work on a no-win-no-fee basis for as long as possible. This is more likely if more people are acting together. If only one or two individuals are employing a barrister this will involve a lot of work for potentially little reward. The more you are together the better.

Also have a fighting fund to cover things like 'common expenditure' i.e. if you need a noise expert, you have money there to fund it. Normally, most cases do not go to the Tribunal, because of the threat of paying. Normally the 'sales evidence' speaks for itself. You could all argue about whether it's 81dBs or 83 dBs or whatever, but if the value of your house has gone down by £10,000, that's the test in the Act. The Act doesn't say the noise levels have to go up by 3 or 4 dBs; the Act states, "The impact on value is the compensation". In fact because it's a 1973 Act; it's only ever been amended at the margins ever since. It still speaks of the impact being £50 or greater. Now I like to think I'm a good Surveyor; I couldn't value a property to £50, but in 1973 you probably could. Today the relevant figure is probably £500 maybe £1000, but they've never updated the Act on that. So in theory that is the 'criteria' and it's very hard to argue, in theory, that you haven't lost at least £50 unless 'sales evidence' completely wipes out everything. How do we look at the sales evidence? We look at areas of similar housing that aren't affected. We see how the prices go up. They may both go up the same, they may go up at varying rates, and they may both go down. If your house hasn't kept up with the general area that would suggest there is an impact. You don't have to say my house has gone up therefore I don't lose anything. What would it have gone up by? You don't have to say my house hasn't gone down, merely ask 'what is the impact?' it doesn't have to be a fall in value. That's how issues are looked at and then, just like a noise contour map, in reality what we tend to do is look at percentages and, like pebbles in a pond map, the ripples so if you are closer to the noise source and, hopefully the sales evidence will show this, the impact is greater. There will always be a road or an area without sales so we have to interpret the impact here, impact there and you are going to be somewhere in the middle. Then we draw contour lines (bands). Then we look at

the band of each property. If you've got a flat next door to a 6-bedroomed house you might be on the same percentage but your value is different, therefore your compensation is different but the percentage should be the same. Unless you are going physically further from the airport, the percentage should be at or near the same. Obviously, on a flat for example, you can only lose 2% of £100,000, on a bigger house 2% of £200,000 or £300,000 so at the end of the day you have different sums.

Surveyors, whoever you engage, will not talk to your neighbours about your final settlement figures unless you want them to. You can, but a surveyor has an overview and has to make sure the percentages are in line & bands are fair. Your settlement will not be discussed with anyone else but we might say they are on 3% as well.

To summarise: A surveyor has an overview and makes sure everybody fits into a pattern.

The final thing to say is my own opinion, and I don't think the press are here tonight, is that as claimants I wouldn't talk freely to the press. You might want to tell them you have a claim in. The press, in some cases, can be helpful but they can also say things you, as a claimant, don't want said.

It is my experience, having been involved with big groups at Farnborough & Heathrow airports; it is better to have one point of contact because the airport authority will get questions answered that perhaps they shouldn't have answered at that point.

I hope I haven't gone on too long and if you have any questions on the Act or anything else I've said I'll be happy to try and answer them.

QUESTIONS & ANSWER SESSION (not all questions were audible but have typed answers anyway)

Q. If the case goes to Tribunal does that create a precedent for other new claims?

A. Yes, it does set a precedent. Technically each claim is considered on its merits but it would be very foolish of either side to ignore a Tribunal settlement. Normally if you go to the Tribunal you are at the end of the 6-year period unless you know at day one you have a cast-iron case and the other side has said 'see you in Court'. In which case get a quick reference into the Tribunal so it sets a precedent to deal with the others. Normally you go to the Tribunal later in the process. By the time the Tribunal has given their results sometimes it's after the 6-year claim period. But that's something we'd look at. If the airport say 'no' and won't talk, then yes go to the Tribunal early to get the precedent set.

Q. Are you saying a group of claimants all use the same solicitor or surveyor?

A. Yes, I have to say on Farnborough I am the only surveyor because I went to meetings like this & residence associations. You can claim individually, there is no compulsion to join, but if you have a single point of contact it makes it easier to make sure the other side is being told a consistent story. I have been involved with some schemes where, I won't ever degrade a Chartered Surveyor, but there are some firms who aren't surveyors and they will settle for perhaps less than I as a valuer would be happy with. I'll give one example: it was a roundabout scheme near Worthing on the south coast where I'd already got 3% on an approach road to the roundabout and another firm settled for 3% on the front line on the roundabout which had been widened itself. My negotiations with the District Valuer had been on the basis that he was going to pay 6% on houses actually fronting the roundabout. Once he'd got that settlement with the other firm he used that as his precedent and said it was 3% for the whole scheme.

Q. So if a group of people acted together with one surveyor that would cut down on the expense?

A. What I haven't said is that your expense for having a surveyor is covered by the Act. Most surveyors, me included, work on a 'no-win-no-fee' basis. The Highways Agency has published a fee scale which is a decreasing sum per claim. You get your compensation in full and the fee is paid on top so you don't lose. It's not like a PPI claim or an accident claim where people are asked for 20% or 30% of your compensation. The Act says your compensation goes to you and the surveyor gets his fee paid in addition.

Q. Will you be our surveyor?

A. Jon Fuller repeated the question and added you may want to pause on that.

Q. I live directly under the flightpath and since the aircraft have been coming in my property has been damaged. I've been in touch with the airport; they don't want to know, they pass you from one phone to another. I tried the local MP, what do they do? They don't want to know because it's not voting time. I want someone to come and look at the property and see the damage done.

A. There is precedent where vortex damage can damage tiles & roof areas and I have to be fair to the airport people it is very hard to predict but there is precedent that airport authorities should and do pay for vortex damage, that's effectively wind that can cause physical damage.

Q. When I have a cup of tea the plane causes ripples, what do you call that?

A. That, to me, is vibration. Vibration is covered by the 1973 Act in so far as it affects the value of your property. If there's physical damage to your property the airport authority should repair that.

Q. Nobody wants to come a look at the damage, nobody.

A. I will come and look at it.

Q. What about rented accommodation? Who can claim for compensation?

A. The Act says:

- a) If you are the freeholder of a property and you occupy it you can claim.
- b) If you are the freeholder of a property but don't occupy it and there is no lease you cannot claim. That stops developers of new housing estates claiming for unoccupied houses.
- c) If you are an owner and the property is let to somebody whether that's on a long lease or a short tenancy that prevents you, as the freeholder, physically occupying that property the freeholder can claim but the tenant

can only claim if the lease is 3-years or more. Again it's the impact on the value of that tenancy. So if you're on a short, say 6-month, tenancy you cannot claim. Your freeholder/owner can.

Off the back of that, I'd just like to say this is obviously Part One of the 1973 Act. Usually I get asked what is Part Two? Part Two has a sting in the tail.

Part Two is: The Authority will effectively provide double-glazing. In reality it is 'secondary' glazing. In reality the value of that secondary glazing gets knocked off any claim you get. I had a scheme where I lost some claims because they said I should be claiming on Part Two as another surveyor told them to put in claims on both Parts. I said don't, explaining secondary glazing soon goes out of fashion and it comes off your value. When upgrading insulation homeowners have double-glazing installed, Part Two is 'secondary' glazing, it's the old air-handling units you may have seen in housing and the value just comes off your Part One anyway. So frankly, what's the point? It's useful if you're the Highway Authority because you get big contracts so you can put those units in cheap and sometimes they can defer the claim as noise levels have suddenly gone down and you get fewer claims. As claimants, I'd advise you to concentrate on Part One. If you get money you can decide what you want.

Council or Housing Association tenancies are technically less than 3-years even though you have 'rights of succession'. In reality you cannot sell a tenancy it's got no value but the Council or Housing Association can and do put claims in for Part One. When the M25 was widened lots of Housing Associations got lots of money. I am pleased to say, they spent the money on roof insulation & window installation & generally upgrading the properties for their tenants and one even gave tenants a rent reduction.

Q. I've just lost the sale of my property in Crescent Road, the other end of Marine Parade due to EasyJet doing their thing - end of story! If I were to sell my property for 20% less than it is up for at the moment, does that mean I would claim 20% as the level of compensation I could claim or would it be some arbitrary figure that you or a colleague might come up with?

A. If we can get 20% we will and that would be good evidence, but I have to say there is no guarantee because, like any piece of sales evidence, if there is other evidence that outweighs it you have to take that into account. Sometimes there may be an affect of 20%, another of 5%. Where do you draw the line?

Q. Who decides where the line is drawn?

A. Hopefully your surveyor and the other side's surveyor will be looking at the same pieces of evidence. From a surveyor's point of view, unless they are being pushed on by the other side, surveyors have a duty to be fair.

Q. If there are 20-30 people here tonight who want to use the services of someone, such as yourself, how does that happen? Do we all e-mail you separately?

A. Jon: From SAEN's point of view we thought we ought to be providing a service to as many people as we possibly can, so our advice is to e-mail SAEN, we are giving out slips with our e-mail address; contact us from our website. But we can't categorically say you cannot make up your own mind and make your own decision. Chris kindly agreed to record this meeting and a typed transcript will be available free to anyone who wants a copy, whether SAEN members or not.

Q. I'd like to ask about the claim date. Your definition earlier was 1-year from implementation. Can it be a greater length of time? The airport has plans to expand further dramatically in the next 2-years. The 1-year period may not be enough time for the full impact of expansion to be felt. It may be greater 2-years down the line and not when the runway was first used.

A. The 'Claim Date' is the first anniversary of when the work was complete and first open for public use. With an airport, unlike a motorway that usually gets busy from day one, an airport will trickle up the number of flights as contracts get let. What we have to look at is what was the 'known anticipated intensification of use'. If the airport subsequently expands again, and it could be a runway extension; or it could be alterations of a major style to the apron areas which could make the airport more efficient enabling greater turn-around of aircraft whilst people are coming and going; that triggers another claim. But if it's all related to this original physical works you have one claim. You remember I mentioned the noise contour envelope. That is what we have to look at in terms of what it was designed to cope with. In some instances, and I hark back to Farnborough, they have an original consent for 28,000 flights a year. Whilst the claim period has gone on they've got, on appeal, 50,000 flights a year on the same runway but they have put some extra bits of concrete

down on apron areas. So what that will mean is the original claims are still valid but when we get to the first anniversary of the extra concrete there will be some fresh claims. But that will be for a little bit on top because all the 'extra' flights to get to 50,000 were within the noise contour anyway. It was only some operational benefit having all the concrete together rather than spread across the site which means they can put a third hangar up and have greater numbers of planes. So we have to look at the facts of this case. Normally, unless they do something physical to the site it's one claim and the 'known & likely anticipated intensification'.

Q. (partly inaudible). My understanding of that when a claim is paid it comes with a slip requiring signature stating 'in full & final settlement' and if they expand again you cannot make any further claims.

Jon: an important point word of caution is that you should not sign any document without professional advice first.

A. Normally, and the Highways Agency does this with road schemes, when you get your payment there will be a Deed of Discharge which effectively says it is in full & final settlement for that claim. As you've highlighted, sometimes airports try to say it is 'full & final discharge' for ALL claims. That's why you MUST NOT sign something like that. If it states in full & final settlement for THIS claim, that is correct and they are entitled to do that as it gives certainty to both sides so I wouldn't say don't sign that but if it states full & final settlement against the airport that's when alarm bells ring and that suggests to me they are planning something.

Q. To clarify what you've said so far, as I understand it unless you are in the process of selling your house now, we could make a claim for 12 months in any case from the beginning of next May?

A. Yes, subject to confirmation of completion date.

Q. Is there any merit in 12-months time instructing you or someone of standing to put in a 'class-action' for as many people as possible who are being affected and hitting the airport with a big compensation claim?

A. I want to answer that question tactically. If we know there is going to be a lot of claims anyway then, yes, I'd say put all the claims in on the first claim date and let the interest mount up. If, when we look at the sales evidence, we think actually there might be (say) 60 claims but we might think there's not a huge number of claims tactically we might want to submit a few claims and see what reaction there is and then feed in more & more claims. Because once they acknowledge the principal of paying it's very hard to turn round. The vibe I have is there will be lots of claims so go in hard, threaten to go to the Land Tribunal if they are not going to talk sensibly to get things moving and keep the momentum going, otherwise 6-years soon goes.

Q. You have been talking about double-glazing and I assume you are talking about noise inside the home. Yesterday, a beautiful day, I was sitting in my garden with a friend when three EasyJet planes went over. The noise was so deafening. The friend, who lives outside the area, maintained they were far too low and had too much power and in his opinion Easy Jet were not flying very well. Is there any compensation for outside noise or is it purely for indoor noise?

A. Yes, the compensation is for the impact on the value of your whole property. Part Two, which is the secondary glazing, talks about having permitted levels of noise within habitable rooms, that's why, typically, they put secondary glazing in living rooms and bedrooms and you won't get it in bathrooms – under Part Two. We come back to saying what's the effect on value? If you are living in a flat you are more likely than not to be inside and therefore double-glazing may well protect you from noise anyway so the impact on value may be slightly different to the value of a house with gardens because the gardens might be a selling feature of the property. One claimant of mine has lakes and you can see oil-film, which is a discharge, on them, that is a feature of the property, therefore we are talking about a bigger percentage because that particular property is affected to a higher degree than, say, a normal house.

Q. (partly inaudible). An earlier speaker said the airport work is finished and the claim can go ahead. It is a fact the airport is not finished. The application to extend the new terminal and apron has been approved by the Secretary of State but at the moment Anglian Water is holding up work. Where does that leave us in relation to the 1-year completion period? The terminal extension is pending.

A. The compensatable works are lengthening of runways or alterations to apron areas. Terminal buildings don't qualify, but you mentioned some work to aprons as well. If that was part of the original planning consent that's comes in part one. If it's something new that wasn't in the original planning application then that's two claims.

So we have the May date for the first scheme and when the apron area is completed and is first used that gives us a new claim date for a second scheme.

Q. (inaudible) Received 'cold' letter saying you need a solicitor but he takes 20% of any payout.

Jon: The question is: Do you need to engage a solicitor and surveyor rather than just a surveyor?

A. In my experience you don't need a solicitor unless you go to the Land Tribunal. I've acted on many thousands of claims and you do not need a solicitor to agree the Deed of Discharge or anything like that, it is a simple letter that says "I am settling this claim". There are solicitors who jump on the bandwagon such as the one writing to you but good luck to them. We are in a recession; they have to earn a living (laughter). But I have to say the Act is about value and the impact on the value of your property. You could do the claim yourself. You could get an estate agent to do the claim for you. What I would say is if you do it yourself, and I'm happy for you to do that, make sure you've got the overview; the overview of other people, the overview of other scheme evidence because if you do get that form that says you are signing away your rights once you've settled, you cannot come back at them unlike the Highways Agency, whom I can't praise enough, if they find out their settlements were wrong, and they reached them in good faith they will make an ex-gratia payment on top. You won't find an airport doing that. The Highways Agency is very good and very fair.

If you go to the Land Tribunal, as a surveyor, I cannot present the case for you. A barrister has to do that. The barrister has to be instructed by a solicitor. Normally, if they agree with the case they will work on a no-win-no-fee basis but there is the risk, if you lose, of paying the other side's costs. But that's where the barrister will look at this. Typically there is a charge of between £2,500 - £3,000 for Counsel's Opinion, but split between all the claimants, could work out at £10 each and they will say what the legal arguments are and what the chances are. That's useful to have to present to the insurance company to try to get cover for the fees. So I would recommend getting the legal side involved then. If you can get that one barrister to act for you, the one we are using at Farnborough is the one that won against Heathrow Airport when five London Councils challenged Heathrow airport on night flights. He's good and he acts on no-win-no-fee basis and gives you good news & bad news and he will advise you on whether it's worth continuing. That's when you have surveyors, barrister & solicitor acting together I'm afraid.

Q. Rather than a group of us finding our own solicitor who may not know what they are talking about, are you happy to handle the whole job or recommend them when the time comes?

A. I would happily recommend them. What I always say is don't just trust me. I know barristers who are good, I know barristers who perhaps are not so good but are cheaper and we need to bear in mind what the strength of the argument is, to see how much exposure is relevant. But, in any event, I'd say also find one or two extra people yourself.

Q. You are far more likely to know someone than we are.

A. Yes, I hope so, but the Internet is very good. There are a limited number of barristers who have the experience taking claims to the Land Tribunal.

Q. With the extension of the airport and more flights, and I would say in the future, slightly larger aircraft and noise levels around 80 dBs, what about air pollution? When you are around the airport you can smell the pollution. Where can we find out about limits? There's got to be a limit.

A. I suspect that's something at peak time at any airport would come under European regulations on pollution. In terms of any compensation claim, how would a purchaser view it? What is the impact on value? This is where I can say I'm a simple surveyor. We just look at the market value and the impact on value, that's what the claim is about. If, when prospective buyers view your property they smell the pollution and are prepared to buy that is reflected in the price.

Q. If it's my decision to move and I cannot sell my property how broach Southend Airport to buy my house and have they bought any houses in the area already?

A. Kiti: they have used their own form of compulsory purchase to purchase the two remaining smallholdings that were in their way. I was informed that they were very reluctant to pay the full going rate. I wouldn't trust the airport to value my house.

Q. Should we already have had our houses valued prior to the airport up and running? (Jon: We have already put out a leaflet about getting your property valued, as we feared it could come to this).

A. Estate Agents' letters giving you marketing values aren't always accepted, I wonder why? Sometimes they can be slightly optimistic, sometimes you get two different valuations and you are not sure what is the right one to market your property, but it is useful. Hindsight gives a valuer more knowledge. Try to predict what your house would sell for today - you can't. Trying to say what it was worth 6-months earlier should be easier because we've got the sales evidence to look at. If you can get letters from Estate Agents, and I'm sure they'll get suspicious if they get hundreds of enquiries, but if you can that's helpful. At the end of the day, actual sales evidence is more reliable. I would say some estate agents are known for overvaluing properties "; But I would say that wouldn't I? But you can't argue against evidence of a sale.

Q. How many properties are there that could potentially make a claim?

A. Kiti: There are 20,000 properties under the flightpath how many of those are actually motivated to do something about the noise & pollution, I do not know.

Jon: We suspect 20% of the population are really not bothered.

The Act doesn't say you have to be within a certain distance from the airport. In theory you could be 50 miles away. In reality the compensation bands are tighter, you look at the sales evidence and that ripple in the pond will get to zero.

Q. So the more people who get involved in this the unit price reduces for everybody for the costs involved.

A. Yes, in terms of involving a barrister.

Q. We come under Westcliff on the Somerset Estate completely under the flightpath and we have never had anything from SAEN. We've done things we can do but neither us or our neighbours have had anything from SAEN. The only thing we've had is someone put round a notice yesterday about tonight's meeting.

A. Jon: I'm really surprised, I'm a lunatic-leaflet myself and I promise you I have leafleted your area. What I will say is there could be a lot of work for us in connection with letting more people know about the compensation issue and we are always looking for volunteers. If we have missed anyone's house I can only say we're sorry but we're all unpaid volunteers.

Q. An earlier speaker spoke of intolerable noise when in her garden. Is it possible to use the European Human Rights Act that says you are allowed to enjoy the privacy of your home & garden.

Jon: You are absolutely right. (Just before we come to that I will just mention in terms of publicity we paid out for a half-page advert in the Leigh Times, so we did the best we could in the time available).

A. The question about European Rights to Quiet Enjoyment: The 1973 Act, was probably around the time the EU came into being, but that's totally separate, I'm afraid and the experience I have is that the decision would be; 'it's been authorised as a scheme' and therefore your views were taken into account as part of that process. I am not defending it, but that's what they'd say; your views were taken into account and for the public good it was given the go-ahead.

Q. I don't feel we were asked whether it was okay and if we accepted it and the noise, it was just done and that was it.

A. Jon: So you feel let down?

Q. Yes, I do. (audience consensus)

A. Jon: I think a lot of people are in your position. It's just dawning on you how bad it is. My word of caution is it could get a whole lot worse yet.

Q. I am a resident of West Leigh. I know Cllr Wrexham is here but we've not had any help or anything from Southend Borough councillors. Why didn't you invite more councillors tonight?

A. Jon: People are very angry and if they'd come tonight they would have a very hard time. Some of them worked tirelessly to see that airport expand and they really wouldn't want to attend a meeting like this. Prior to the May election SAEN made a big effort to publicise who you should consider supporting and those you should not but we didn't have a big enough impact on the structure of the Council.

Q. Write to your councillor. (laughter ensued).

A. Jon: The gentleman made a valid point. Our worst enemy is apathy. We have to do something. Even, if we ultimately don't stop a scheme, we have to try.

Q. What about council estates within the flightpath?. What have councils done? They are crafty & clever; they've gone in and done all the houses up to cover a multitude of sins.

Q. Talking about the councillors; I noticed on SAEN's Facebook page there was a link to some council minutes where it states: 'there has been no increase in complaints' about the airport. We must keep sending complaints.

A. Jon: Regarding complaints, please get in touch with SAEN via the website or Facebook and send a copy of your complaint to us. There is a link on both sites for this so we can monitor numbers. We are absolutely convinced complaints to the airport are not being properly recorded.

Kiti: The airport complaints line where you can record your complaint is usually full therefore you cannot leave a complaint. If you send a complaint to the airport you will get a reply from somebody called Mrs Jo Marchetti. It is placatory in the extreme, it is almost 'Ibuproforma'. At the bottom of the reply it says; if you are not completely satisfied with this please get in touch within 10-days, otherwise we will consider this finalised or finished. So you must get back to her. It means a lot of correspondence but I suggest you keep copies of that correspondence. Send the whole lot to your councillor. It's no good sending an individual letter to your councillor. You must bombard them with letter after letter. One letter won't cut it.

Q. As a lot of people are saying they didn't see a leaflet or they weren't aware of what's happening, I'd just want to make a suggestion, that SAEN puts, say, a 10-point plan on the website for general access giving advice such as;

- i) Are you selling your home? These are the steps to take.
- ii) If you are not selling your home and want to make a compensation claim, this is what you can do. It's down to everybody to make the effort.

Q. When this kicked off a couple of years ago Stobarts and the Council didn't mention anything about EasyJet coming to this airport. Obviously we didn't know anything about these problems and there could be other airlines coming to the airport. They are not going to tell us are they?

A. Jon: Clarification of question: The gentleman was talking about Southend airport could easily be bringing in more airlines to operate without telling anyone.

Q. (partly inaudible) While on an open airport tour I was told they are going to build a third terminal so what's going to happen then? We've been told we can possibly get compensation paid for apron work but if they go further along and build another terminal building, can we get compensation?

A. NOT for terminals I'm afraid. Compensation is only paid for runway & apron areas.

Q. (partly inaudible) Mention of the noise contour was made. Possible more air traffic.

A. That suggests the noise contour is generous.

Kiti: They have said there can be 53,300 air traffic movements (ATM) a year; that includes small planes & large aircraft. If they were to extend that number with a view to aiming for 6million passengers a year you have got another claim base.

Q. Can I just say I think Anglian Water is doing a very good job by holding off the terminal extension at the moment. With regard to passenger numbers they only needed the extended terminal to boost numbers there and we will all be suffering double what we are now because the terminal has doubled in size now. I phoned Dean Hermitage at Planning at Southend Council, because I am troubled more by night noise and, as we know, there are restrictions on night noise but not enough to stop them turning aircraft round at night. Being woken two or three times a night is no joke, which I put to Dean Hermitage and asked him how compensation (meeting interrupted at this point by aircraft noise – those assembled appreciated the irony of it) will be dealt with in respect of this? He replied there are two levels of compensation. One is done by decibels and the other is common compensation that doesn't rely on decibels. Is that correct?

Jon: I just want to make sure people are aware the airport has permission to operate up to 4 night flights during the night operation period, up to 120 per month. It's not currently using that but Jill's point is there is additional noise at night when aircraft are moved at night on the airport.

A. Night noise is horrible because you as occupiers hear it but I'd be pretty certain that most purchasers don't go around looking at houses near midnight or 5am in the morning. From the Act's point of view, if it is not a factor that is fed into the agreed price you don't get compensation. You may be able to pursue it under environmental health legislation if there is a limit and the local authority may be able to enforce that limit because it should be a quieter/lower level at night than in the day. For compensation, from the 1973 Act point of view, there are no triggers in terms of finance settlements just because it is noisy at night, I'm afraid.

Q. Are there any grounds in the Environmental Protection UK Noise Policy Statement England (March 2010)? It reads:and commits Government in England to include noise considerations in policy making across departments and applies to all forms of environmental, neighbour & neighbourhood noise (it does not apply to workplace noise). It sets out a noise policy vision to: Promote good health and a good quality of life through the effective management of noise within the context of Government policy on sustainable development. More information can be found at <http://www.environmental-protection.org.uk/noise/environmental-noise/policy>. Is there any mileage in that?

A. Sorry, not in the 1973 Act. Having been involved with a recent planning appeal that raised a similar question, I have to say the Planning Inspector there wasn't too hot on that either. Basically he said well it's just part of all the impact we have to bear and on balance the Inspector made a decision a certain way. It wasn't a trump thing. When you read that piece of legislation you think it's important and should be a key component of the decision making policy. In reality it's something you put into the spinner and you see what comes out at the end.

Q. Do we have any estimate for the total loss of property value caused by the airport?

A. No, but I wish I did.

Q. Have you got any ideas?

A. No.

Q. It would be an interesting figure to bandy around; and say look Stobart is making this much, the council is making this much but the people are losing an awful lot more.

A. The Department of Transport did a study about 5 or 6 years ago that showed, on average, for each 5dB increase in noise, and that's the average, property values would fall by between half & one percent. I think that's a little pessimistic because you have to look at the locality and what 5dBs means. Noise with decibels is measured logarithmically, so it's not a straight-line increase, it goes off the graph and a 5dB increase is big.

When I had discussions on the Croydon Tram Link with Transport for London, who had taken over the claims because the operator went bankrupt, and Croydon is a relatively noisy place, TfL argued that nobody could differentiate a 3dB noise increase. For a road system that's probably right because 3dB is generally reckoned to be the audible difference you can when it's turned on & off. But with a tram, like a train, it's an intermittent noise and it's really hard to differentiate, when it's averaged, what 3dB is and it's just as hard with 5dB averaged over a whole day. The reality is your alarm clock wouldn't make 1dB over a whole day but it wakes you all up and that's what we have to keep bearing in mind. It is the 'event' noise that is important. Dept of Transport's own figures shows, on average, half to one percent for each 5dB increase.

Q. Kiti said earlier 20,000 properties are affected?

A. Kiti: 20,000 properties, 60,000 people.

Q. Can we not make a rough guess at how much their properties will devalued by?

A. Kiti: I can only suggest, if any of our members here tonight, have had their house valued over the last year or if you've enquired at any estate agents about changes in value, please let us know and we can make that information available.

Q. Just thinking about the night noise, and I do appreciate people don't view houses during the night, but if you've got noisy neighbours you have to declare that when you make a sale. So if you don't declare the night flights your purchaser can probably sue you for non-disclosure. How does that impact?

A. Yes you have to be honest. What I would say is take advice from your solicitor because they have set forms of words that will say something like; 'as the purchaser is aware there are other noises in the locality and the purchaser should visit the property at various times of the day to make sure they are not an inconvenience to them'.

Q. (partly inaudible). Would it be beneficial to have our own monitoring equipment to give us a definite reading rather than an average?

A. Yes, most airports have an Airport Consultative Committee. If you can find somebody on there, the airport will produce a noise action plan and they measure the noise at points on the centre line and points away from centre line. It looks a bit like a bell in that there will be a peak which is off of the centre line which is the maximum noise on take off and then take a measure of 3000mtrs from the end of the runway at a point of 200mtrs off of the centre point there. Now those are very sensitive measurements and it would be very brave if you were to argue against them, they are all measured against an agreed standard amongst all airports. Usually that's good evidence anyway, because that will give you evidence of event noise of 80-89dB, even 92dB for some planes at those points as the planes go up. So, yes, you can go down the route of getting your own noise meters; but it's expensive. If you go to Tribunal then you may have some stock but your are then opening up a new can of worms by opening yourself up to having your equipment tested to ensure it's reliable. Normally the other side has got nothing to hide in terms of what that event shows because, at the end of the day, the compensation is how does the purchaser view that noise. Purchasers don't go around with noise meters, they will say - 'Ugh that's loud!' or 'I can just about live with that' and somehow the system works and that then results in a lower price. People like tranquillity, which is why the Act came into place. If airports didn't create the noise they wouldn't be specifically mentioned in the Act. So the acknowledgement is there that people don't like noise and we look at the sales evidence to show us what the impact on value is.

Kiti: A brief word about The Airport Consultative Committee. They don't like us very much. We did a presentation of what we thought very early on in the campaign. It was a good show that we gave them but we got absolutely no feedback apart from one chap, who is my favourite mole who tells me what is going on. We are not welcome on the consultative committee because we don't agree with anything they say and the people on consultative committee do agree, regardless of their politics. There is one lady on the committee represents 20 people from the village community - all of 20 people! We could've represented 200-300 people but we are not welcome

Q. It's just a question about council tax. Originally council tax was based on a valuation made many years ago. With a devaluation of our houses is there any point in pursuing a reduction on our council tax? I'm not suggesting civil disobedience for a minute, but this is the sort of thing the Southend Council would understand.

Jon: the gentleman's question is about the level of council tax.

A. Yes you can. What I would say is council tax is in bands so just because your value has gone down, if it hasn't crossed that boundary into the next band, you might have a victory but you get no savings. What I would say is the Ministry of Defence (MOD) are giving their service tenants near Farnborough Airport a rent reduction because of the overflying noise.

Q. (inaudible) Properties within the public safety zone (PSZ) and we don't yet know the exact area it covers, cannot be extended or developed. Does that come within criteria of the 1973 Act?

A. A Part One claim makes no differential between whether you are in the PSZ or not. Fear of a crash is not compensatable but within a PSZ, as I understand it, if you make an application that is refused you can then claim from the airport for the impact on the value of your property through not being able to extend it, as a result. So you don't claim 'it would've been a four bedroom house, therefore it would have been worth another £20000 but the right to have that extension, because you haven't spent the money on the extension, have you? So there is precedent of airport authorities paying where the PSZ has meant you cannot extend your property, but the risk of an injury, I'm afraid, isn't an extra payment.

Q. It is a question of safety. I've written to Cllr Holdcroft several times about planes coming in over the lower part of Somerset Estate at rooftop level. If there were ever a mechanical failure in the planes coming over, the

results would be horrendous. I think I'm right in saying the Council has a legal Duty of Care to the council taxpayers and if anything did happen they'd be sued.

Jon: It is very worrying indeed.

A. The Civil Aviation Authority (CAA) will have authorised, hopefully they've issued the certificate, authorising the use so they will, as I understand it, be the 'responsible authority', so if there were an accident you go to the CAA, who have said it's fine, rather than the local planning authority, the council.

Q. If you're still alive!

Q. It wasn't the CAA who bulldozed the scheme through against an 80% vote by the Joint Advisory Airport Panel; it wasn't CAA that did that it was the Council. I can watch from my garden and see the jets disappearing because there is a hill immediately passed my property that they have to go down and they literally go down at rooftop level.

A. If planes are that low the impact on the value of the property will be great.

Q. (inaudible but related to compulsory purchase).

A. Compulsory purchase: you get the value of your property plus 10% to reflect the fact you weren't a willing seller. Under a Part One claim, in theory, the maximum is 100% because you're not actually selling your property; you have no loss. In reality you wouldn't have lost 100% of the value of your property; because somebody would pay you £1 and the question is how much? So in terms of the percentages, if you were having a new 6-lane motorway put at the end of your garden there's a lot of evidence that shows, as a maximum, you would lose 25%. We're always open to look at the actual evidence but over the years that has been a consistent pattern because there's noise but motorways open up areas and you get new people coming in and sometimes there is an uplift as well as a negative impact for that particular property.

How many people are successful? I have to say, usually, I only put in claims where I think there is more than 60% chance of being paid. If someone approaches me and says 'I want to claim as well', if they want to claim they can. If I had 200 people out three miles away and I didn't think they had much of a chance, I'd tell them that and, frankly, I'd probably say put their own claims in, because frankly, my credibility with the other side is lost if I suddenly throw away 80% of the claims that have already gone in. At the end of the day very rarely does 100% of people get paid. On the smaller schemes, like that roundabout scheme I referred to everyone got paid because I only targeted the ones I thought were going to get paid. I had another scheme recently where my letter was copied to other people and distributed many roads back from the roundabout. They sent in photocopies of the Instruction letter signed and I sent it back to them and said I'm sorry I don't think I can honestly act for you. Put your own claim in if you want to. Sometimes we have to say the evidence says the line comes here and those people aren't in. My experience is that more people are successful than not because we've looked at the evidence before we put the claim in. That's why it's helpful to have that first year to see what the sales evidence is telling us.

Q. (inaudible) Group or Individual Claimants?

A. Every claim is individual. So whomever you instruct each one of you will have an instruction letter going to your surveyor. Normally when the offers are negotiated, the other side will start off low, if anything, and you get to a figure where, hopefully, your surveyor is prepared to recommend it. Normally, 90% of people will accept the surveyors' recommendation. But if you want to chat about it, look at the evidence, or go through it, the surveyor will be happy to do that and explain why he thinks it's fair. You will always get one or two people who say no, I want more. If I think, on balance, they're fair I won't accept any of the offers and I'll go back and see if I can get more than that because that might have a knock-on affect on everybody else. If I think actually they are just being greedy I will tell that person, 'I think you are being greedy, if you want to get more, good luck to you'. What would usually happen, and I have to say and here's where it gets a bit mean, the other side will say "hold on, we've got all these settlements at this level anyway you aren't going to get any more", it's a bit chicken & egg.

So to answer your first question: each claim is an individual instruction and, secondly, it's down to each person individually to see if it's fair and that's where it's useful to talk over the garden fence because I won't be saying your neighbour is getting x, y or z. If you do talk to your neighbours, have a little discussion and hopefully you'll all see that it's fair. If I don't think it's fair I will tell you and only as an extreme would I say this is as

good as it's going to get, don't go to the Tribunal accept what they are offering you. Normally there will be a discussion and both sides may think they could've got an extra thousand quid but we're there or thereabouts. That's how negotiations are reached.

Q. Obviously the airport needed to get CAA authorisation but it was given before EasyJet began operating out of Southend. I live parallel to the runway in Rochford and you could not possibly believe how low planes are. Everytime it comes into land I'm absolutely terrified. Is it going to get down safely? How, if the airport wasn't in full operation, did the CAA, pass the airport? Had the full operational impact been known, would it have generated the Public Inquiry? I cannot understand how this dangerous flying has been allowed, we are 20,000 homes under the flightpath and I cannot believe there is another airport surrounded by 20,000 homes. We are all at risk if there is a mechanical failure. How have they passed it before knowing the full impact of EasyJet and how low planes are over properties? Could it generate an inquiry into the dangerous way EasyJet are flying?

A. I mentioned the CAA. I don't have any specific knowledge how they make their decisions, to be honest! What I would say is; and I hope you don't start throwing tomatoes at me; I would raise that with your MP (laughter & jeering). The CAA is a national level but that's the sort of level it's got to be taken up with. If you don't get on with your particular local MP, and I'm sensing that, have a look at one of the Select Committees at the House of Commons and see who deals with aviation policy and go to one of the other members on that committee and raise it as an issue if you feel you can't raise it with your MP.

Jon: Just for clarification, David Amess was in favour of the airport expansion but spoke out on a few occasions against night flights.

Q. We've been talking about compensation for private homes; do the same rules apply to care homes, schools, factories, offices etc?

A. Mobile homes get a fixed rate if they qualify, not based on market value it's a fixed figure. Schools don't qualify but if the caretaker's house is capable of separate selling. It has been know for compensation to be assessed on the value of the caretaker's house. Care homes don't because the property is let to people but not with 3-year leases. Owners don't qualify because technically it's let on a lease. It may be possible for a commercial business to have compensation but only if the rateable value is less than the limit, which I think at the moment is about £18,000. So it seems to be for quiet, small premises. If you are using commercial premises for music lessons you could argue the noise affects your business. For most commercial businesses airport noise doesn't really affect the value of that business and it's more than the rateable value limit anyway. A bigger property doesn't qualify. Only units capable of being occupied as residential units stand any chance.

Q. My son's actually got a music business on Purdeys Industrial Estate, very close to the airport and planes going over when he's recording does have an affect and he has to completely discard some work & start again. Would he be able, if we were to start a 'class action', so called, to be included in that?

A. It could work if he's got a lease of more than 3-years or owns the building and if he is within the rateable value limits then he does have a potential claim.

Q. We've mentioned noise pollution what about air pollution?

A. Noise is easy to measure with these noise-measuring instruments & we can all hear noise. Air pollution is almost an unknown. I have to say, and it comes back to this 'I'm a simple surveyor', the answer is in the value of the property, so if pollution, and sometimes you can smell it, if that's affecting the price people will pay for your property it's all part of it. It's really hard to split that out from the element that's the risk of a plane falling out of the sky and hitting a house. That is really when surveyors will say, what did we agree on other schemes? How close is that plane, how does it feel as an environment? How does it smell? We might go back to other airports we've dealt with and just try and rank this one with the others to try and see where the settlement would fit in with relation to the others.

End of Q&A Session

Jon: I will just mention a quick couple of points: a lot of people in this room are incredibly angry with the local authority for allowing the expansion but we don't have time to go over that but I will mention none point. A local authority, Thanet, was very keen to expand their small local airport at Manston in Kent. I found it really interesting that that local authority, although they thought there was an economic case to expand and decided to go ahead with it, they **absolutely categorically refused night flights** much to the annoyance of the airport owner. So I do think we need to make the points that this community has been badly let down by our local authority, with the exception of councillors like Peter. (Councillor Peter Wexham is sitting at the back of the hall).

Kiti: I would like you all to become members of SAEN so that it would be easier for us to contact Chris in future as a group, to air our problems, to try to sort out what it actually means. I would urge you, if you are on the Internet or in the library to access the Act yourself. There is no summary of it and it is rather heavy but you can skim through and find bits you've been hearing about this evening and actually read them and digest them slowly for yourself is a good idea.

I would like you to know we are listening even if the Council isn't listening and we will do our best, it doesn't always work, but we will do our best to pass that on to the relevant departments.

I urge you to contact your councillors even though they will not take any responsibility for what they've done. They won't take any responsibility for the noise complaints but they do need to know what's going on. I am in constant communication with our two, I think the third one might be dead, he doesn't answer anything but he lives in Thorpe Bay! I live in Eastwood, my councillor lives in Thorpe Bay but the other two are interesting to say the least and you can get some quite good letters going. If you can annoy them enough they will do something, however that aside:

Please can we give Chris Hunt a huge round of applause and thank him for coming here tonight. I expect when we get home we'll think of things we should've asked him. Contact us and we'll put you in touch.

Jon: We hope you found this evening interesting, helpful & informative and it just leaves me to say thank you all for coming tonight