

1 Thursday, 8th June 2006

2 (10.00 am)

3 THE CHAIRMAN: Good morning. It is 10 o'clock. Mr Groom
4 has been explaining the difficulties this morning.

5 I suppose there is a possibility that Mr Ojar, who is
6 due to appear this morning, is caught up in those
7 difficulties. So what I am proposing to do is to

8 adjourn. I will not adjourn until a fixed time, I will
9 adjourn until I am informed of his arrival. I think

10 that seems to be the most sensible thing to do. Are you
11 content with that?

12 MR PEREIRA: Yes, absolutely.

13 THE CHAIRMAN: Is there anything you wanted to raise at this
14 moment in time?

15 MR PEREIRA: No, there is not.

16 THE CHAIRMAN: I will now adjourn until the arrival of
17 Mr Ojar. If he does not arrive this morning, then the
18 inquiry will stand adjourned until 1 o'clock, and that
19 will be taking place in the room down the corridor which
20 we use for the round table discussions.

21 Thank you very much.

22 (10.02 am)

23 (A short break)

24 (11.42 am)

25 Procedural discussion

1 THE CHAIRMAN: Good morning, once again. I was here at
2 10 o'clock. I understand, Mr Ojar, there was perhaps
3 some misunderstanding in terms of where we were holding
4 today's session.

5 MR OJAR: Yes. I thought it was going to be where the
6 pre-inquiry was. My mistake.

7 THE CHAIRMAN: I am pleased to see you have made it here
8 anyway.

9 Now, there is one difficulty that I have, because
10 I have another session which will start at 1 o'clock, so
11 we have really got no more than an hour to make use of
12 this morning.

13 MR OJAR: Okay.

14 THE CHAIRMAN: But I do not want to impose an unnecessary
15 time constraint on you; I want to make sure that you
16 have the opportunity of making your case and also have
17 the chance to question two of the witnesses from the
18 London Development Agency.

19 MR OJAR: Okay.

20 THE CHAIRMAN: I also see from e-mail correspondence that
21 you were one of a number of people who have been
22 informed yesterday by Irwin Mitchell solicitors that the
23 Legal Services Commission has made a positive
24 recommendation for funding, and permission is being
25 sought to address me on that point today.

1 MR OJAR: Yes.

2 THE CHAIRMAN: Are you aware of that e-mail?

3 MR OJAR: Yes, I have been aware of the funding issue,
4 because as you may realise, the LDA have not agreed to
5 give us legal representation of any kind.

6 THE CHAIRMAN: I am aware of the background, yes. What
7 I wanted to establish was, in the light that I am being
8 addressed at 1 o'clock today for a further deferment in
9 relation to hearing the case for Clays Lane residents,
10 whether you wish to continue this morning or whether you
11 wish to await the outcome of that application to me
12 later today?

13 MR OJAR: No, I would like to continue, because I think
14 I have my own points to represent, and I would like to,
15 you know, question these people, or whatever, put my own
16 points. They are maybe slightly different to others,
17 and I am not too sure what is happening, and it is all
18 very up in the air. So at least I am here this morning,
19 I will put forward my case. You know, in regard of the
20 inquiries, you have to do the best you can, but the
21 outcome is probably already predetermined, I would
22 think, nearly 100 per cent. So you are just putting
23 your best case, and that is it. So it does not make any
24 sense.

25 THE CHAIRMAN: First of all, I should reassure you that the

1 matter is not predetermined. That is the whole basis of
2 my being here. At the very outset I made it plain to
3 the London Development Agency that it was for them to
4 present a compelling case in the public interest to
5 justify the making of the compulsory purchase order, so
6 the onus is firmly on the London Development Agency to
7 discharge that requirement.

8 In terms of hearing your objection, I am happy to
9 hear it this morning. I merely wanted to make sure you
10 are aware of recent developments so at least you knew
11 the position.

12 MR OJAR: Yes.

13 THE CHAIRMAN: So far as this morning is concerned, what
14 I have from you is your original letter of objection,
15 and I have the outline statement of case --

16 MR OJAR: Right.

17 THE CHAIRMAN: -- that you have submitted, and which are
18 before the inquiry.

19 MR OJAR: Right, because I have here, on my own -- I know
20 I sent off two e-mails. I think one was on the 1st, 2nd
21 of -- the last one was on 2nd March. That is the one
22 I have in front of me. I do not know which one you are
23 referring to exactly.

24 THE CHAIRMAN: The ones that I have is the original letter
25 to the government office of 20th October --

1 MR OJAR: Yes, I have that, yes.

2 THE CHAIRMAN: And indeed the one of 2nd March you referred
3 to.

4 MR OJAR: Yes.

5 THE CHAIRMAN: So I have all the papers that I need

6 MR OJAR: I also sent off some e-mails to Mr Groom, which I
7 told him to black out the names in regards to two people
8 who were querying the LDA's statements. LDA made some
9 statements and promises which were subsequently found
10 not to be fulfilled. They were -- I think they were
11 major claims. It does throw some question mark I would
12 think on the LDA's, I would think, their sincerity; you
13 know, on whether we can depend or trust them. To me,
14 these are major points, and I found that dealing with
15 the LDA, that it is very difficult to find, to -- to pin
16 them down to anything. When you do pin them down to
17 something, they never seem to carry it out. There
18 always seem to be serious problems in them fulfilling
19 their duties, obligations, and the statements that they
20 make.

21 THE CHAIRMAN: Is that the sort of area that you want to
22 question this morning?

23 MR OJAR: That is one area that I think is very important,
24 because if you have an organisation you cannot trust, do
25 not deliver on their promises, then you have to question

1 whether they are suitable to continue with the
2 programme, or the programme to continue with them. And
3 you probably have to place some sort of restraints on
4 them to make sure they fulfil their requirements. So
5 I think it is a major issue when you cannot -- you know,
6 an organisation. And to me it is this point of the LDA,
7 over the time I have dealt with them. But these e-mails
8 are just to prove that point.

9 THE CHAIRMAN: So as far as your case this morning is
10 concerned, it is contained within the two documents that
11 you have?

12 MR OJAR: I think that to me is one of the main things, that
13 scenario. The next scenario I am looking at is in
14 regard to Clays Lane itself. My understanding in regard
15 to Clays Lane is that the original purpose that it was
16 going to fulfil, which would have been the Olympic
17 Village, has since been changed. Because initially it
18 was supposed to be accommodation, and apparently now we
19 were told some time ago that this is not the case.

20 THE CHAIRMAN: Would be it helpful if you had the
21 opportunity of asking those questions now to the LDA
22 witnesses?

23 MR OJAR: Yes, I think that would be useful, just to ask
24 them on this scenario.

25 THE CHAIRMAN: You had indicated that there were two

1 witnesses that you wanted to question; Mr Blacker and
2 Mr Gaskell.

3 MR OJAR: Yes.

4 THE CHAIRMAN: Do you have a list of separate questions for
5 each?

6 MR OJAR: No, I have not, I was just going to ask them.

7 THE CHAIRMAN: You have a series of questions. First of
8 all, Mr Ojar, let me introduce Mr Pereira. He is one of
9 the counsel, one of the barristers for the London
10 Development Agency, and has been leading certain
11 sessions on their behalf.

12 This morning's session was down as a formal inquiry
13 appearance. From what I have heard so far, it strikes
14 me there may be an advantage in dealing with this in a
15 rather more informal way, and I wonder, Mr Periera,
16 whether we can have Mr Gaskell and Mr Blacker available
17 in tandem, and questions to be put by Mr Ojar, see what
18 can be dealt with on that basis, and then for me to give
19 you the opportunity of asking Mr Ojar any questions in
20 relation to his case once you have had the opportunity
21 of any matters of re-examination. Does that seem to be
22 a sensible way of proceeding?

23 MR PEREIRA: Well, sir, certainly we do not mind that
24 procedure being adopted, but of course it is important
25 that Mr Ojar understands what that means, particularly

1 since, as I understand it, there was a choice given to
2 him about the type of procedure he wanted to follow, and
3 he chose a formal session. So I think that is a matter
4 for him, but we do not mind that at all.

5 What I was envisaging might happen is that my
6 witnesses would be questioned at the outset, as it were.
7 I would simply by way -- just to lay the context with
8 Mr Gaskell, just want to go through the points that are
9 raised by Mr Ojar in his letter, just for Mr Gaskell to
10 summarise what the LDA's position is on those points.

11 THE CHAIRMAN: I think that would be helpful as a starting
12 point.

13 MR PEREIRA: Can I just add this: in the e-mails that I have
14 seen from Mr Ojar, he says that he is going to forward
15 two e-mails; I have not received those, and I do not
16 know if anyone else has received them.

17 MR OJAR: Can I say, I forwarded it to Mr Graham Groom.
18 I asked him to black out the names and forward it on to
19 the respective parties. That was some time ago. If you
20 have not received it, I apologise, but I did pass them
21 to Mr Groom some time ago, to black out the names and
22 forward it to you.

23 THE CHAIRMAN: Are those important to this morning?

24 MR OJAR: I think it is important because it is trying to
25 show the point that the LDA are not keeping to their

1 promises. They make some serious promises which seem to
2 be broken, not kept, or appear to be irrelevant to their
3 approach of dealing with people.

4 THE CHAIRMAN: Do you know when those e-mails would be?
5 Would they be after 2nd March?

6 MR OJAR: Yes, they were after 2nd March.

7 MR PEREIRA: Sir, if it helps, the e-mail that I have seen
8 is an e-mail dated 2nd May of this year.

9 THE CHAIRMAN: Do you have copies with you?

10 MR OJAR: Yes, I have copies here.

11 THE CHAIRMAN: That will simplify matters. I wonder whether
12 we can carry out that exercise. If they can be handed
13 over to Mr Groom, if you show him what you want blacking
14 out. Do you want a moment or two outside?

15 MR OJAR: Just a second. (Pause)

16 THE CHAIRMAN: So, Mr Ojar, in terms of the procedure, the
17 arrangements that I outlined where we would have both of
18 the LDA witnesses available together, is that the best
19 way of proceeding for you?

20 MR OJAR: To me it is fine. I would probably -- I have not
21 really spoken to Mr -- is it Black, or Blacker?

22 THE CHAIRMAN: Mr Blacker, and Mr Gaskell.

23 MR OJAR: I have not really spoken to Mr Blacker before, so
24 I would probably like to question them separately. At
25 some point I would like to question them separately,

1 because I have not really spoken to Mr Blacker. I do
2 not know what his understanding is, or how he views this
3 whole CPO. So I would like to get his impression, or
4 whatever.

5 THE CHAIRMAN: Well, probably the simplest way, because
6 Mr Gaskell needs to make some sort of statement, we will
7 have Mr Gaskell, take the statement, and give Mr Ojar
8 the opportunity of asking questions.

9 MR OJAR: Okay.

10 THE CHAIRMAN: If there are questions that you have that you
11 ask of Mr Gaskell and he cannot answer it, then he can
12 say this is a matter for Mr Blacker, and then we will
13 return to it when Mr Blacker appears. That is the
14 simplest way.

15 MR OJAR: Yes, that is fine.

16 THE CHAIRMAN: So can we bring Mr Gaskell forward, please.

17 MR GASKELL (called)

18 Examination-in-chief by MR PEREIRA

19 THE CHAIRMAN: Is there anything that I need, apart from my
20 pen?

21 MR PEREIRA: Sir, no, I do not think so. What Mr Gaskell
22 was just getting hold of was a copy of the letter of
23 objections that I think is then attached to the outline
24 statement of case.

25 THE CHAIRMAN: I do have those, yes. Thank you.

1 MR PEREIRA: Mr Gaskell, can you introduce yourself to the
2 inquiry, please.

3 A. Certainly. My name is Andrew Gaskell; I am a surveyor
4 with the London Development Agency. I have been working
5 since October on the work to relocate residents at
6 Clays Lane.

7 Q. Thank you. Now, you have in front of you a copy of
8 a letter sent by Mr Ojar dated 2nd March 2006 that lists
9 what are referred to as interim grounds of objection.
10 Is that right?

11 A. That is right, yes.

12 Q. There are six points on that, and I want to start at the
13 bottom of the list and work upwards, if I might.
14 Point 6 I am not going to ask you about. This is about
15 funding, and so on which has been dealt with in
16 correspondence.

17 Point 5 says:

18 "The law states as per the government that there
19 should be compensation for the payment of fees as
20 disturbance in regards to obtaining professional making
21 in making claims for compensation, but the LDA is not
22 allowing this".

23 Can you just summarise please what the LDA's
24 position is on this matter?

25 A. The LDA is making available to residents funding in

1 respects of disturbance as defined by the law. The LDA
2 is not allowing funding on anything that has been
3 discussed at the inquiry before as regards
4 representation at the inquiry.

5 MR OJAR: Sir, when can I ask these questions?

6 THE CHAIRMAN: We will just take a brief statement, he will
7 work through the grounds of your objection, and then you
8 will have the opportunity of asking the questions.

9 MR OJAR: Okay.

10 MR PEREIRA: The expression "professional help" is mentioned
11 there. Again, in summary, what professional help is
12 available to the tenants of Clays Lane?

13 A. The LDA has put in place an independent tenant liaison
14 adviser, which was interviewed by and selected by the
15 residents themselves, who are professionals dealing with
16 rehousing matters for social residents, and are able to
17 provide legal assistance to the residents at the estate.

18 Q. Is that provided by officers of the LDA, or the
19 individual tenant liaison advisers, as the name
20 suggests, separate from the LDA?

21 A. The independent tenant liaison adviser service is being
22 provided by SNU, the Safer Neighbourhoods Unit, and they
23 were unanimously selected by a panel made up only by
24 tenants, and observed by the LDA and the CBHA.

25 Q. Thank you. Can we go on to 4, please. It is said, "The

1 LDA are not using alternative dispute resolution as
2 recommended by the Government". One assumes that means
3 alternatives to compulsory acquisition. What is being
4 done by way of alternatives to compulsory acquisition?

5 A. Well, at the moment, as with all occupiers in the
6 Olympic zone who are being relocated, we are doing that
7 by agreement. So there is a period of offers being made
8 to residents, and negotiation on that which I would
9 suggest is the alternative dispute resolution mechanism
10 here.

11 Q. Thank you. Point 3, "the LDA and other authorities have
12 no intention to approve facilities accommodation for the
13 present occupants."

14 Your comments, please?

15 A. The LDA has adopted, and I have set it out in my
16 evidence, a fairly comprehensive programme of generating
17 rehousing options for residents at Clays Lane and other
18 occupiers, so I do not think that is the case at all.
19 We have a very firm intention to try and relocate
20 everyone, and our hope is to relocate everyone by
21 agreement.

22 Q. Thank you. Then so far as your intention is being
23 called into question there, do you have any comment to
24 make on that?

25 A. I think our intention is very firmly to improve

1 facilities and permanent accommodation for those
2 occupiers.

3 Q. Thank you. Point 2:

4 "The LDA are seeking to forcibly evict us from our
5 accommodation by June 2007."

6 Any comment?

7 A. Again, I go back to the fact that what we are trying to
8 do is to relocate people by agreement, provide them with
9 options that they are happy to relocate to. Clearly we
10 are in possession of the compulsory purchase order, but
11 that is seen very much as sort of the background to it.

12 Q. Thank you. We then have a list of lettered points, A to
13 G, under number 1. I cannot ask you about G, because
14 I do not know what it is. F:

15 "Adequate compensation for the loss of the co-op,
16 and being a member thereof, and the potential housing
17 benefits."

18 In terms of the loss of the co-op, what brought
19 about the loss of the co-op?

20 A. That was a separate High Court action instigated by the
21 Housing Corporation, which had concluded before the
22 making of the CPO.

23 Q. And loss of housing or potential housing benefits.
24 Insofar as that uses the expression "housing benefits",
25 what will be the position in terms of housing benefits

1 for residents who relocate?

2 A. We do not expect the relocation in any way to affect
3 their eligibility for housing benefits. They will be
4 treated exactly the same as any other residents in
5 Newham or wherever they are relocated to.

6 Q. Thank you. E: "Adequate compensation for the loss of my
7 flat". Any comment?

8 A. The LDA has set up a compensation payment in line with
9 the statutory amounts prescribed. That has been made
10 clear to residents for a long time now, and a great
11 number of residents have taken up the compensation
12 payments as they have relocated from their current
13 properties.

14 Q. Now, D says, "To set up a community similar to the one
15 I now live in". These are all under the heading that no
16 proper preparation has been made in relation to these
17 points. C, "To give similar amenities to what have we
18 have at present". It is those two points I want to ask
19 you about, please. The expression "us" is used there,
20 so if I ask you this question in the context of group
21 moves, what is the position? What stage have we got to
22 now in terms of what the LDA is doing to enable group
23 moves, please?

24 A. The LDA has made significant progress in bringing
25 forward group moves. In my rebuttal to Mr Cheyne's

1 evidence, for example, I referred to that, but setting
2 it out now: working with Peabody and CBHA, we
3 presented details of five separate options to those
4 specifically interested in group moves on 20th April.
5 That was followed up by site visits on 5th May to those
6 sites, and there are further meetings programmed for
7 next week to discuss the feedback from those site
8 visits.

9 Those options obviously make allowance for the
10 potential to move as a community from Clays Lane to
11 those new relocation sites, there is certainly provision
12 within that for that. I think we have discussed before
13 the potential size of this. There are up to 100
14 apartments that could be provided at one of the sites,
15 that is being looked at very hard by one of the groups.
16 Similarly another site could provide accommodation for
17 40 people within a group move. Also, within that, there
18 is provision for residents to become involved in the
19 design of the purpose-built accommodation, and that
20 would potentially open the door to provide similar
21 amenities to those provided at Clays Lane insofar as
22 they are desired by the groups relocating there.

23 Q. As I understand the position from evidence you have
24 given elsewhere, there are two properties in particular
25 that are being looked at closely. One is an existing

1 property that can be refurbished, and the other is
2 a site which has planning permission, is that right?

3 A. That is right, yes.

4 Q. Can you just explain what the opportunities or
5 differences are between the two?

6 A. Yes. The two sites in question: the existing property
7 is the Nags Head estate in Bethnal Green, which is owned
8 by the Peabody Trust, and is due to be fully
9 refurbished. There are some short life tenants here
10 that will be -- people are getting out to refurbish it.
11 As part of that refurbishment, Peabody have offered it
12 forward for a group move for residents of Clays Lane.
13 This is a property that could accommodate approximately
14 40 residents. These works are expected to be completed
15 by July 2007, which is obviously the timetabled date for
16 vacant possession of Clays Lane. As part of that,
17 tenants could have input into the various refurbishment
18 work that is being proposed for the flats that they are
19 looking to move into. There is also space and scope
20 within some of the ground floor areas to look at
21 communal facilities in that as well, so there is an
22 opportunity for an input there.

23 The second opportunity is Galleons Roundabout, land
24 within the Royal Quay development here in the
25 Royal Docks, where there is an existing planning

1 permission which would need to be reviewed and a new
2 planning application put in for residential. We have
3 discussed that with the local planning authority; they
4 do not see any problem with that.

5 As part of that, we are discussing with those
6 tenants interested in a group move the potential for
7 them to be involved in some of the design input to a
8 revised planning application so that we ensure it helps
9 them to meet some of their aspirations for a group move.

10 There have been, I am aware, meetings amongst the
11 residents to discuss those proposals, which have been
12 fairly well attended. The issue with this, though,
13 clearly, is that as we have not yet got an implementable
14 planning permission, then that needs to be worked up,
15 and as we are trying to make provision for residents to
16 have that input into design, it is extremely unlikely
17 that that is going to be ready any time before early
18 2008, so there is the requirement for a double decant,
19 or a temporary relocation of people into different
20 properties for the period between the vacant possession
21 date of Clays Lane and the completion of that
22 development.

23 Q. Thank you. Is the appetite for a group move amongst
24 existing residents universally held, or not?

25 A. No, it is not. Going back to the Fluid Survey, I think

1 there was -- it has never been a majoritive desire to
2 move as a group, but what we are looking to do now that
3 we have specific proposals in front of residents is to
4 go back and do another survey. The format of that
5 survey was agreed with the Tenants' Representative
6 Committee on Monday of this week, so that work is now
7 under way and will be undertaken by the Independent
8 Tenant Liaison Adviser to ascertain the exact appetite
9 for this kind of a move.

10 Q. Thank you.

11 MR OJAR: Once again, my questions will take some time. Is
12 it possible, if there is not enough time, for me to come
13 back tomorrow, and we will continue tomorrow?

14 THE CHAIRMAN: I will come to that as we need to do. The
15 usual practice is that I take a response to the
16 objection and an update, on the basis that the objection
17 was made a little while ago, so what we need to do is to
18 bring ourselves up to date, and for the LDA to present
19 their case, and you will then have the opportunity to
20 ask any questions.

21 MR OJAR: All I am saying is this may take longer than the
22 time permitted, and if it is possible to come back in
23 the morning, apart from the hour here.

24 THE CHAIRMAN: We will certainly look at the possibility of
25 you coming back, because I am not going to impose a time

1 constraint. The important thing is you have the
2 opportunity of being able to present your case and being
3 able to ask questions.

4 There is a practical difficulty about you coming
5 back in the morning, because we have a very full
6 programme, but we will look at that and agree a further
7 time, because it is quite clear that we are going to
8 need to do that, we will not finish this morning. But
9 I thought that as you had made the effort to get here,
10 we would at least make a start.

11 MR OJAR: Yes, yes, I initially thought -- but then if he is
12 going to go into detail on questioning, which of course
13 he has to do, because it is his case, but if that will
14 eat into my time, I do not really have much time to do
15 it.

16 THE CHAIRMAN: There will be no prejudice to the time
17 available to you, and hopefully some of the responses we
18 are getting will be helpful to you because you will
19 fully understand the LDA's position.

20 MR OJAR: I appreciate that.

21 THE CHAIRMAN: Thank you.

22 MR PEREIRA: Thank you. Moving on, then, I think that dealt
23 with C and D. B: "To give us a property/flat that will
24 pay a similar rent/charge to the one I presently reside
25 in".

1 What has the LDA's position been on changes in rent,
2 and what does the LDA say about that?

3 A. I think I would make a number of points here. Clearly
4 the Clays Lane estate has traditionally had very low
5 rental, and it is unlikely, as I explained elsewhere,
6 that that situation would continue, even in the absence
7 of the proposals we are bringing forward at the moment.

8 That said, I think the vast majority of tenants
9 there, the low rent is explained by the fact that they
10 are in the shared units rather than single occupancy
11 units such as Mr Ojar's. Clearly, when you move from
12 a shared unit to a single occupancy unit -- and there
13 were proposals underway, they would have to close anyway
14 -- there will be an increase in rent associated with
15 that. For the single occupancy units, I do not believe
16 that properties at Clays Lane are that far out of synch.
17 There are a range of accommodation opportunities
18 available to residents of Clays Lane at different
19 prices, and I think if you look at average rentals
20 within Newham for social rented properties, they are not
21 that far out of synch with what actually is being
22 charged at Clays Lane.

23 There are clearly additional issues to do with
24 council tax which we can come on to. I think, you know,
25 the point is that there are obviously mainstream funds

1 available for residents, such as housing benefits, and
2 in terms of council taxes, obviously discounts that can
3 be applied that will help people look at the
4 affordability of that.

5 It is something the LDA is very aware of. The LDA
6 has engaged with Clays Lane on the move, the Tenants'
7 Representative Committee, to have a look at the actual
8 effects of affordability on relocation properties being
9 proposed to make sure that not only ourselves but the
10 residents as well understand what the likely impacts are
11 going to be. That work is still under way, there are
12 papers in circulation on that. But I think there is
13 certainly the opportunity for residents at Clays Lane to
14 move to properties where rent is broadly comparable to
15 what they are paying at the moment.

16 Q. Thank you. Then finally, the location of any relocation
17 site, point 1(a), it says:

18 "No proper preparation has been made to relocate us
19 to an area close to the existing property."

20 What do you say about that?

21 A. Well, we have clearly in terms of availability provided
22 residents with information about the East London
23 Lettings Company, the choice-based lettings scheme run
24 by Newham. That covers the area of Stratford and
25 immediately adjacent to the Clays Lane estate, and any

1 vacancies there are available to residents. Similarly,
2 Peabody are looking at RSLs working within the immediate
3 area to see what vacancies there are there.

4 There are a range of opportunities available to
5 people. It is exactly as it is described: it is
6 a choice-based scheme, so it is for people to choose
7 what best suits their needs. Some people are interested
8 in being very close to where they are at the moment;
9 other people are interested in particular types of
10 property, or in other locations that better suit their
11 needs. So there is certainly adequate provision of
12 properties in the local area for those who wish to do
13 so, but that is by no means an universal choice.

14 Q. Thank you. Is there anything else that you feel you
15 want to add in respect of the points that are made in
16 this objection before you are asked questions by
17 Mr Ojar?

18 A. No. I think that we have a relocation strategy that
19 seeks to address all of these items. We have met with
20 residents and discussed that over a considerable period,
21 including Mr Ojar. Those meetings in some instances
22 have been chaired by the Local Assembly member. So we
23 have given residents the opportunity, both directly
24 through these meetings to express their concerns to us;
25 we have also set up the Independant Tenant Liaison

1 Adviser to try and capture collective concerns that
2 residents may not feel comfortable voicing directly to
3 the LDA. We are engaged with the Tenants'
4 Representative Committee and things such as the Working
5 Group on Affordability to make sure that we understand
6 the impacts of that. So we have sought to put in place
7 a process not only that deals with concerns, but to
8 explain to residents how those concerns are being dealt
9 with.

10 Q. I suppose to put this into context, Mr Ojar from his
11 objection seems to be concerned about group moves, and
12 you have mentioned that, but can you just tell the
13 inquiry what the position is in terms of progress that
14 has been made with individual moves to date?

15 A. Yes, I can. I will make sure I have the right figures
16 in front of me for the sake of consistency, as it is
17 obviously a process that is moving day by day. People
18 are relocating from the estate.

19 Q. But the information you currently have is what?

20 A. That as at 8th May, there are 347 units remaining
21 occupied out of a total stock of 450 units at
22 Clays Lane. So 103 units are vacant, and of those 103
23 units, 25 were vacant prior to commencement of
24 relocation; 30 units have been vacated by residents
25 accepting the compensation payments offered and making

1 their own arrangements for rehousing; 41 units have been
2 vacated by residents accepting an offer of other Housing
3 Association property, not covered by nomination
4 arrangements, and brought forward by CBHA, the managing
5 agents on the estate; four units have been vacated by
6 residents accepting a property covered by nomination of
7 rights and made available through the East London
8 Lettings Company; and three units have been vacated
9 without engagement with the relocation process. Those
10 are generally where people have abandoned units or where
11 the residents have died.

12 That is the information that I have available at the
13 moment.

14 Q. Thank you very much. If you would wait there,
15 Mr Gaskell.

16 Discussion on how to proceed

17 THE CHAIRMAN: Thank you. Before we start, Mr Ojar, as
18 I indicated earlier on, we have a very tight time
19 constraint, and I do not want that to reflect in any way
20 on the way that you present your case or you ask
21 questions. I am wondering whether you are likely to be
22 able to ask all of the questions you want to ask
23 Mr Gaskell within the next 15 or 20 minutes, or whether
24 it would be sensible to take up your suggestion that you
25 come back to another session so that we can allocate you

1 the full half a day that we had originally allocated?
2 That will give you the opportunity of considering the
3 LDA's case in response to your objection and sorting out
4 your questions into two sets, those for Mr Gaskell and
5 those for Mr Blacker.

6 MR OJAR: Yes, sir, I would like extra time. I think there
7 are some major issues here that I need to question both
8 of them on, because I think that they are putting
9 forward a very plausible case which needs to be
10 unpicked, and I think that will take time. If I can get
11 half a day, that would be fine to do that, so I do not
12 mind continuing to 1.00 pm and then -- or half a day, or
13 whatever, just time to do it.

14 THE CHAIRMAN: I do not want to be in the position where you
15 are halfway through asking Mr Gaskell questions, because
16 that presents complications, because you will go away
17 with perhaps partial questions and answers that you want
18 to make an immediate follow-up to.

19 MR OJAR: I do not mind. At least we can start.

20 THE CHAIRMAN: Well, I am very worried about the time that
21 we have and the way that the witness is part way through
22 questioning, because in terms of the sessions, we always
23 run the sessions so that any witness who is being
24 questioned actually finishes the question session rather
25 than being left over to another day.

1 The other practical difficulty is it is not just
2 a matter of returning tomorrow, as I indicated, because
3 the programme for the next two or three weeks is quite
4 full, so in terms of finding a slot for you, it may be
5 two or three weeks away. You would need to resolve that
6 with Mr Groom. It would then be very difficult,
7 I think, for Mr Gaskell and perhaps for you in terms of
8 remembering what ground might have been covered. So I
9 would prefer to leave it as we are. We have your
10 objection now before the inquiry, we have the response
11 of Mr Gaskell to that, and when we resume, you will have
12 had the time to consider the LDA's position as made
13 clear this morning, and to come with two sets of
14 questions, and we will bring back both Mr Gaskell and
15 Mr Blacker.

16 MR OJAR: That is fine. If you could postpone for two or
17 three weeks and I will make arrangements, that is fine.

18 THE CHAIRMAN: I think that is the fairest approach to you,
19 because I do not want you to feel that you were rushed
20 this morning or that you have had to do it in two
21 sessions. Mr Pereira, is that acceptable to you?

22 MR PEREIRA: It is, sir. Can I raise two points. The first
23 is that if Mr Ojar is coming back, it might be helpful
24 to us so that we can better understand his objection to
25 the inquiry in terms of timing if he were able to put

1 something in writing just to explain a little more about
2 what he was talking about.

3 THE CHAIRMAN: Yes. I can deal with that now. Mr Ojar, as
4 far as the inquiry is concerned, you very kindly
5 provided an outline statement of case. The procedure
6 that we have been adopting is then for anybody who is
7 appearing at the inquiry to present a statement which
8 they would submit before a hearing of the inquiry, in
9 terms of actually developing their case, because so far
10 as what we have, it is a series of individual points
11 with little to substantiate your case.

12 So I think in fairness to you, it would certainly be
13 of great help to me to have a further statement which
14 makes perfectly clear your grounds for objecting, and
15 I think a little more detail, because the statement does
16 refer to them as being the "interim grounds", and
17 I think, in your interest, you need to fill those out
18 a little more fully.

19 MR OJAR: Yes. I can go into more detail on the various
20 points, which, if you wish, I can do it. I do not know
21 how much detail you want me to go into, because for
22 example, he made a point about the ITLE, and that is
23 a big, big issue at present, because the ITLE to my mind
24 is not fulfilling an important function in regard to
25 legal representation. They are actually blocking us

1 from getting legal --

2 THE CHAIRMAN: I cannot advise you in terms of what should
3 be your case. You have set out your interim grounds,
4 and I think it would be helpful if you would look at
5 each one of those -- for example, I take number 1, "No
6 proper preparation has been made, (a) to relocate us to
7 an area close to the existing property". You might want
8 to explain in a paragraph or two what has happened or
9 has not happened, and to approach each of those in that
10 particular way.

11 MR OJAR: Yes, I think, of course, it will be -- what I will
12 do, I will give a bit more information, probably bullet
13 points, because it could go on forever. Bullet points
14 on these matters. And also, if the LDA could put
15 forward their own objections to these points I wrote
16 here, and also what they have said today, so at least
17 I have something to go by also.

18 THE CHAIRMAN: Yes. Clearly those matters can be developed
19 further at the next session of the inquiry, but I think
20 it is very important that we do have further
21 information.

22 MR OJAR: Yes. I will spend some time, because this will
23 take some time, putting in more detail. But I think the
24 LDA's objections has given me more points. I will also
25 in my points address some of the issues that they have

1 brought up which I think are fundamental to my case.

2 THE CHAIRMAN: Yes. Hopefully in terms of what has been
3 raised this morning, in making an up-to-date position
4 statement, so far as the LDA are concerned, you are
5 aware of that, and that would form the way you want to
6 respond with your objection. If you speak to Mr Groom
7 afterwards, he will agree a slot and also a date by
8 which you should submit your further information.

9 MR OJAR: Yes, fine.

10 THE CHAIRMAN: Mr Pereira, one other point, I think?

11 MR PEREIRA: Yes, there is one other point, Sir. I have
12 said formally that those are the questions I have for
13 Mr Gaskell, although cross-examination has not started,
14 but you will appreciate that I am dealing with this day
15 to day, as is Mr Gaskell, and there are equivalent
16 points arising on other objections, and indeed, if
17 Mr Ojar puts in some more information, I will want to
18 discuss that with Mr Gaskell. If I do need formally
19 your permission to be able to do that, can I ask for it,
20 please?

21 THE CHAIRMAN: You can indeed.

22 MR PEREIRA: Do I have it?

23 THE CHAIRMAN: You do have it, because that is the way that
24 I would deal with it on the basis that it is ongoing,
25 and if there are matters that need to be dealt with,

1 then I would expect the witness to be recalled to be
2 able to deal with that.

3 MR PEREIRA: And for my to be able to speak with him outside
4 of the inquiry?

5 THE CHAIRMAN: Yes, there is no issue with that because he
6 has not started cross-examination. He has presented
7 evidence-in-chief. That was one of the reasons why
8 I was anxious not to start cross-examination, because
9 otherwise it would have created that potential
10 difficulty.

11 MR PEREIRA: I am grateful. I just wanted to be clear on
12 that.

13 THE CHAIRMAN: Yes. There is absolutely no issue on that.

14 MR PEREIRA: Thank you.

15 THE CHAIRMAN: Is there anything further that you want to
16 ask me, Mr Ojar?

17 MR OJAR: Can I just broadly give a background to the case?

18 THE CHAIRMAN: I would like you to do that when you come
19 back, because I think then it would put your case into
20 context, and I think that would be a good starting
21 point, to hear your case in one go, as opposed to
22 hearing something today and then coming back on another
23 occasion.

24 MR OJAR: Okay, fair enough. All I was going to do was give
25 a background to Clays Lane and my situation, because

1 I think that --

2 THE CHAIRMAN: It might be helpful if that was in your
3 statement so that I am aware of it when you come back
4 next time. It can be set-down.

5 MR OJAR: Okay. What I will do, I will also give
6 a background to Clays Lane and myself, then you will
7 probably understand really the situation and the
8 objections, otherwise you would not understand. Because
9 we are a special case. We were a co-op before. Many
10 different things. We were the biggest single co-op in
11 Europe at one time.

12 THE CHAIRMAN: I can sense what might be in your statement.
13 But those are points that can be properly made as part
14 of your statement.

15 MR OJAR: Okay.

16 THE CHAIRMAN: Anything else, Mr Pereira?

17 MR PEREIRA: Sir, no, thank you very much.

18 THE CHAIRMAN: I now adjourn the inquiry until 1 o'clock.
19 Thank you very much.

20 MR OJAR: Thank you.

21 (12.25 pm)

22 (The Luncheon Adjournment)

23 (1.15 pm)

24 CLAYS LANE RESIDENTS ROUND TABLE DISCUSSION

25 Application by THE OBJECTORS

1 THE CHAIRMAN: Ladies and gentlemen, good afternoon. The
2 inquiry into the London Development Agency
3 (Lower Lea Valley Olympic and Legacy) Compulsory
4 Purchase Order 2005 is resumed. First of all,
5 I apologise for the slight delay in starting this
6 afternoon, but I had been asked by the parties if they
7 could have a few minutes outside the inquiry before
8 I resumed.

9 As most of you know, my name is David Rose, and I am
10 the lead inspector for this inquiry. This afternoon
11 I am joined by my colleagues, on the right
12 Miss Laura Graham, and on my left, Alan Nettey. As you
13 are aware, TV cameras are present again this afternoon.
14 Can I first of all check that there is no objection to
15 that? Thank you. And the usual reminder, if your
16 mobile phone is still switched on, now is your
17 opportunity to switch it off and save yourself from
18 embarrassment later.

19 Earlier this week I held the first of a series of
20 round table sessions concerning the objections made by
21 a number of residents at Clays Lane. This afternoon is
22 allocated to the second of those sessions. However,
23 I have received a request to hear a second application
24 which seeks a deferral of the case to allow the local
25 residents to have legal representation, and to call

1 expert evidence.

2 Can I first of all establish who is going to make
3 the application?

4 MR WALD: Sir, I am. If I can introduce myself, my name is
5 Richard Wald. I will spell the surname, it is W-A-L-D.
6 I am a barrister. I am instructed by Andrew Lockley of
7 Irwin Mitchell to act for the Clays Lane Estate. I know
8 from the transcripts that you have heard from
9 Andrew Lockley on 17th May this year. In those
10 transcripts reference was made to a possible change of
11 circumstances in relation to funding made available to
12 the residents at Clays Lane Estate. I appear today
13 because in the last 48 hours there has been a change of
14 circumstances. That change of circumstances is as
15 follows --

16 THE CHAIRMAN: Sorry, before we go through that -- I will
17 invite you to in a moment -- I just want to establish
18 who is going to respond for the LDA, and just outline
19 the procedure for everyone present.

20 MR ROOTS: I appear for the London Development Agency.
21 My name is Guy Roots, Queen's Counsel.

22 THE CHAIRMAN: Thank you. So far as the procedure is
23 concerned, I shall hear the application, establish
24 whether any of the residents wish to comment, and then
25 invite a response from Mr Roots. I shall ask questions

1 as necessary, and I will invite Mr Wald to deal with any
2 necessary matters before I adjourn to consider my
3 ruling.

4 Mr Wald, please.

5 Case on behalf of THE OBJECTORS

6 MR WALD: Sir, thank you. The application then is for
7 a deferment of the Clays Lane Estate representations,
8 which would include the involvement of an expert and
9 cross-examination of LDA witnesses, for a period of
10 six weeks. That period has been selected in order to
11 enable the identification and the briefing of an expert
12 and an advocate.

13 Sir, I made reference to a change of circumstances
14 in the last 48 hours. The night before last,
15 Irwin Mitchell solicitors received information that
16 there had been a positive recommendation for funding
17 from the Legal Services Commission, to supply funding
18 under section 8.2B of the Access to Justice Act of 1999.
19 This, without going into its detail, is an extraordinary
20 grant of funding. It reflects either the overwhelming
21 importance of the matters to be argued, and/or their
22 complexity. It is right to say that procedurally, in
23 order for that funding to be secured, there must be an
24 approval, or a following of that positive recommendation
25 from the Department of Constitutional Affairs.

1 I understand that in almost every case, that
2 recommendation is followed.

3 Sir, I have supplied to my learned friend Mr Roots,
4 and I supply a further copy now, if I may, an e-mail of
5 today's date that makes clear that whether or not that
6 recommendation is followed, these clients will be
7 represented by an advocate, and will have an expert in
8 order to best represent their objection.

9 To put it briefly, sir, and starkly, to the extent
10 that there is any risk of funding not materialising --
11 and I should emphasise that such risk is regarded to be
12 miniscule -- that risk is to be borne by Irwin Mitchell
13 solicitors, and not by this inquiry or by the London
14 Development Agency.

15 So, sir, I refer back again to the transcript of
16 17th May 2006. I know from that transcript, sir, that
17 you invited submissions to be made in the event of
18 a change of circumstances. References were made within
19 that day's transcript to the importance of fairness to
20 these objectors, and that they be entitled to present
21 their objections as fully and as skilfully as possible.

22 It is in order to achieve those ambitions that this
23 application is now made. The application is to hold off
24 current round table discussions until a date six weeks
25 from now. The application is to involve an expert at

1 that stage to deal with detailed and complex matters,
2 including the question of whether the Clays Lane Estate
3 site is necessary to be included in the acquisition
4 lands, including also the available possible alternative
5 sites for relocation, if that be necessary, of the
6 residents -- more than 300 in number -- of the
7 Clays Lane Estate.

8 Sir, it may be said that six weeks is a short period
9 in order to instruct an expert and an advocate in a very
10 large scale and complex compulsory purchase inquiry.
11 Frankly, sir, it is a short period, but it is better
12 than nothing. 16 weeks might be preferable. But
13 concessions are made to the need to have this process
14 concluded within a reasonable time. And it was with
15 a view to those concessions that a period of six weeks
16 was identified as a suitable, as a reasonable, and as
17 a fair period within which these objectors, with the
18 benefit of an advocate and an expert, could advance
19 their objections as strongly and as effectively as
20 possible.

21 Sir, unless there are matters of detail with which
22 I can help you at this point, that is all I intended to
23 say by way of the application.

24 THE CHAIRMAN: Can you indicate how many of the local
25 residents would be represented?

1 MR WALD: Sir, at the moment the number of local residents
2 represented is 47. I understand that it is increasing
3 with time. I mentioned that the total number of
4 residents at the Clays Lane Estate is in excess of 300.
5 I do not suggest that each and every one of those
6 residents would be represented.

7 I should add that there will be a degree of overlap
8 or duplication in the type of evidence that it is
9 necessary to adduce on behalf of these of each of those
10 residents.

11 But the short answer to your question, sir, is
12 currently 47, and increasing.

13 THE CHAIRMAN: Thank you, Mr Wald. Before I invite Mr Roots
14 to respond, can I establish whether any of the
15 Clays Lane residents wish to speak?

16 MR CHEYNE: I would like to make a comment.

17 THE CHAIRMAN: Yes please, Mr Cheyne.

18 MR CHEYNE: I would like to say that the application has
19 been made on my behalf, but that does not imply any
20 criticism of the procedure so far. I was myself very
21 content with the process the other day. And if we are
22 talking about representation, obviously we are talking
23 about presenting our best case. So we are not --
24 I mean, we have attempted to cooperate with the inquiry,
25 we made the points about the need for funding and all

1 the rest of it before, but when the ruling has been
2 given, we have done as we thought we best should and do
3 what the inquiry has asked us to do. So we find
4 ourselves in a rather strange position. But I was
5 content with the work that was done, and I hope that
6 when we come back, that we will be able to -- we will be
7 properly represented and be able to make the best case
8 that we can with the assistance of lawyers, which is
9 what we were hoping to have from some time ago when we
10 first made this application.

11 THE CHAIRMAN: Thank you Mr Cheyne. Mr Sandison?

12 MR SANDISON: Thank you, Mr Rose. I would concur with
13 Mr Cheyne's comments. I feel that our objections and
14 our case would be best represented in the way that is
15 outlined, and we would be doing ourselves and the
16 residents a disservice if we were not to pursue this
17 with the utmost vigour.

18 THE CHAIRMAN: Thank you, Mr Sandison. Mr Armstrong?

19 MR ARMSTRONG: I just wished to bring your attention back to
20 the briefing we had last week, where you said that you
21 would be prepared to accommodate any last minute
22 additions to our argument if we were able to secure
23 legal representation.

24 THE CHAIRMAN: I did indicate possibly that I would be
25 prepared to reconsider the matter in the light of any

1 material change in circumstances, and invited any change
2 to be brought to my attention. Is there anybody else
3 before I invite a response from Mr Roots? Mr Roots,
4 could I have your response, please.

5 Response by MR ROOTS

6 MR ROOTS: Sir, you are in effect being asked to determine
7 two matters. First of all you are being asked to cancel
8 sessions which you had arranged for today and tomorrow.

9 Secondly, you are being asked to extend your inquiry
10 programme for six weeks from -- I presume the
11 calculation is six weeks from today, which takes us
12 towards the end of July; a particular date has not been
13 specified.

14 If I can just deal with each of those two matters
15 separately.

16 I have to say, for my part I do not see the
17 advantage, even from the residents's point of view, in
18 cancelling the sessions that have been arranged, so long
19 as they have every opportunity to add anything later if
20 so advised. As we have heard from Mr Cheyne and
21 Mr Sandison, and indeed is recorded in the transcript,
22 at the end of the session on Tuesday the residents were
23 entirely content with the process. And although I was
24 not present, I was listening in, and it is clear that
25 matters were discussed in a very constructive way, and

1 everybody involved entered into the process in
2 a thoroughly sensible and level-headed manner.

3 Since that process has commenced, and not been
4 completed in accordance with the agenda which you drew
5 up, I have to say, it would seem entirely sensible to
6 continue with that, subject of course to the ability of
7 the residents to add anything later if, when their
8 advisers have had a chance to look at the transcript,
9 they feel there were any matters that were not
10 adequately covered.

11 So those are my points in relation to the first part
12 of Mr Wald's application, cancelling the sessions
13 arranged for today and tomorrow.

14 On the second part, the difficulty we are all in is
15 that it is still surrounded by uncertainty. If it were
16 a question of appointing Mr Wald or one of his
17 colleagues to come and make legal submissions, that
18 would be one thing. There is talk about appointing an
19 expert, but by definition, experts are independent.
20 No one knows what an expert feels able to say. He will
21 not necessarily wish to say what the residents might
22 expect. And even if he provides a proof of evidence in
23 six weeks, I would anticipate that one or more of my
24 witnesses would need to respond, and you would need then
25 to allow an amount of time, which is at the moment

1 impossible to predict, for that evidence to be canvassed
2 in front of you and submissions to be made before the
3 inquiry could be closed.

4 So we are very concerned at the prospect of this, in
5 practice, ending up to be a much longer commitment than
6 six weeks. And if you were at all persuaded to go down
7 this route, we would suggest a shorter period, and also,
8 that Irwin Mitchell be obliged to report to you on
9 regular intervals as to the progress that was being
10 made, the likelihood of meeting the date that they had
11 undertaken to meet, and with what quantity of evidence
12 that we may have to be ready to respond to. And also,
13 the amount of time that might be required in the
14 inquiry.

15 But you will appreciate that my clients are
16 inevitably concerned that this may end up by being
17 a process that occupies a great deal more than the six
18 weeks than has been suggested.

19 Sir, I think it is also just right to record that we
20 ourselves have seen nothing about this recommendation
21 from the Legal Services Commission. Clearly,
22 a recommendation for funding could encompass a range of
23 possibilities, from funding Irwin Mitchell on their own,
24 to funding Irwin Mitchell instructing counsel, to
25 funding Irwin Mitchell to also instruct an expert.

1 You will recall from the correspondence that you
2 have seen previously from Irwin Mitchell that very large
3 sums of money indeed were originally being asked for.
4 It might assist you in terms of programming if you could
5 be informed either directly by the Legal Services
6 Commission, or by Irwin Mitchell being a little bit more
7 forthcoming than they have been, as to exactly what it
8 is that they are undertaking to fund in the event of the
9 relevant minister not approving a recommendation which
10 has not been described in great detail to us.

11 Sir, I think that is all I need say. Depending on
12 your views, we may need to consider the procedural
13 implications, obviously.

14 THE CHAIRMAN: Thank you, Mr Roots. Mr Wald, before
15 I invite you to respond, can I just be clear on one or
16 two matters, please? The first is the request for the
17 six weeks. Is that an anticipation that it would be six
18 weeks to the date of appearance?

19 MR WALD: Sir, we would obviously seek to be as flexible as
20 we can be about the precise timing, but six weeks was
21 chosen as a realistic period within which an advocate
22 could be briefed, and an expert the same. We would
23 obviously be in your hands about the precise timing of
24 that.

25 THE CHAIRMAN: Because whatever the timescale, there would

1 be a need to set a deadline for the submission of proofs
2 of evidence, and to allow responses by the LDA. So
3 I just want to be certain in terms of the implications,
4 that if it were to be six weeks to the date of
5 appearance, as a guide I would be expecting an outline
6 statement of case within 14 days and a proof of evidence
7 within 28 days, which then allows two weeks -- actually
8 it then allows two weeks to the date of the appearance,
9 which in effect would allow the LDA one week for
10 response, so that all documents were in the inquiry one
11 week before the session is held.

12 MR WALD: Sir, given that the six week period intended
13 a hearing within six weeks, clearly it is right that
14 there be an opportunity for the LDA to respond to
15 whatever evidence is put in. In those circumstances,
16 the period that you suggest, or perhaps with a little
17 alteration to it -- I can see that 14 days for outline
18 submissions is achievable. As Mr Roots rightly points
19 out, the identification and briefing of an expert is
20 something that is sometimes difficult to predict, but we
21 feel that it is possible within that six week period, so
22 what I would ask is a little laxity on the 28 day
23 period, provided it gave sufficient time for a response.

24 We would of course endeavour in the outline to
25 supply as much detail as we could about what is to come

1 in a proof of evidence.

2 Sir, perhaps while we are on that point, part of the
3 response to my application seemed to doubt whether
4 a six week period was an achievable timescale within
5 which to instruct an expert ready to appear at this
6 inquiry. As I indicated in the application itself, sir,
7 if you share that view then you might consider that
8 a longer period is necessary and appropriate, and of
9 course we would not quibble with that. The six week
10 period was identified as the shortest possible
11 practicable period within which to instruct the relevant
12 persons. But, sir, yes, six weeks is the time to
13 a hearing that was anticipated; 14 days for outline
14 submissions seems achievable; a little longer than the
15 28 day period for a submission of a proof would be much
16 appreciated.

17 THE CHAIRMAN: That is helpful for that clarification.

18 I wonder if you can help me in terms of the precise
19 process of the Legal Services Commission and the
20 application? I have in mind a likely timescale for the
21 outcome of that.

22 MR WALD: Sir, I can. I wonder if before I go to that,
23 I can make clear that at this point, Irwin Mitchell --
24 and it is recorded in an e-mail of today's date -- has
25 made as clear as day that whatever happens in terms of

1 the availability of funding and the timing of funding,
2 it will bear the cost. It will bear the risk, if
3 necessary, of the representations that we have
4 described. So, sir, and with great respect, the precise
5 detail of that perhaps is of lesser relevance now that
6 we have that assurance from Irwin Mitchell.

7 Sir, if it is, as I am not sure whether it was
8 intended to be suggested, but if it is disputed that
9 a positive recommendation has been achieved within the
10 last 48 hours, I have no doubt that a redacted version
11 of that correspondence could be supplied. I say that it
12 would be a redacted version, because the correspondence
13 itself I am made to understand includes material that is
14 not relevant to the matter at hand. But if you are of
15 the view that there is doubt about the existence or the
16 validity of the recommendation to give funding by the
17 LSC, that material of course can be made available to
18 you.

19 THE CHAIRMAN: You were saying that in terms of the
20 timescale, it was of lesser importance in the light of
21 the reassurance that had been given by Irwin Mitchell.
22 Do you have any indication of the timescale, or not?

23 MR WALD: Of funding being made available, sir?

24 THE CHAIRMAN: Of being confirmed or rejected?

25 MR WALD: Can I take an instruction on that?

1 THE CHAIRMAN: Please. (Pause)

2 MR WALD: Sir, my instructions are that we do not have that
3 information readily available here. I dare say it can
4 be gathered and supplied to you, even now at very short
5 notice if necessary. But as I say, and I apologise if
6 it is repetition, in terms of timescale, Irwin Mitchell
7 undertake to ensure that there would be no delay in the
8 retaining of an advocate and an expert, and when the
9 moment arrives, that those people be properly paid for
10 their involvement.

11 THE CHAIRMAN: Thank you. I will invite you to come back in
12 terms of the last wording in just a moment. Having
13 developed those questions, Mr Roots, is there anything
14 else that you wanted to raise?

15 MR ROOTS: Only that I think that the offer of the copied
16 correspondence should be taken up.

17 THE CHAIRMAN: Are you suggesting that should be taken up
18 before I make a ruling?

19 MR ROOTS: I suspect the practicality is that you should
20 make a ruling, and that we should have the
21 correspondence so that depending upon further procedural
22 questions, we know the background against which we are
23 working.

24 THE CHAIRMAN: Mr Wald, final comments, and then I will
25 adjourn and consider the matter.

1 Final comments on behalf of THE OBJECTORS

2 MR WALD: Sir, thank you, and very briefly: Mr Roots divides
3 the application into two parts. In relation to the
4 first, the cancellation of sessions currently arranged.
5 Sir, I took from the transcripts to which I have
6 referred that it was always anticipated that there may
7 be a change in the schedule, subject to the availability
8 of funding. That is now coming to pass. I dare say,
9 and I am made to understand, that the residents have
10 done an excellent job of representing themselves so far,
11 but it is also right to say that they should have an
12 important say in how they wish their case to be
13 represented. My instructions from those residents -- we
14 have heard from a couple of them -- is that they would
15 prefer to have the assistance of professionals for that
16 purpose.

17 In relation to that first part also, Mr Roots says
18 that of course an opportunity to come back on unexplored
19 matters would be made available. It may well be, sir,
20 that with this window of six weeks, and the involvement
21 of an advocate, legal representatives, matters can be
22 suitably whittled down so there could be an
23 overall saving in the amount of inquiry or round table
24 time that is spent.

25 I am also mindful of the fact, sir, that when you

1 asked how many residents were represented, the answer
2 was 47. It is increasing. It seems sensible and fair
3 that an opportunity, a window of time be made available
4 so that those that wish to be represented can be so.
5 I think that, if I may say so, should form part of the
6 consideration; that we do not have a final number of
7 residents wishing to be represented, we have an
8 increasing number, currently at 47.

9 Sir, in relation to the second limb, as
10 characterised by Mr Roots, the extension of the inquiry
11 programme: sir, I hope it is needless to say, a number
12 of references were made to it in the earlier transcripts
13 which I have seen. It is of course important to ensure
14 that these residents have a fair crack at the whip. If
15 that means extending an inquiry timetable that
16 I understand is currently contracting, possibly due to
17 the withdrawal of other objections, then so be it.

18 And if it is suggested that there is uncertainty
19 about what can be achieved in six weeks, my response to
20 that would be simply that considerably more can be
21 achieved in six weeks than can be achieved overnight.
22 So whatever it is that the local residents are able to
23 gain by way of benefit from professional involvement in
24 the promotion of their objection, that is, in my
25 submission, to be encouraged, and not discouraged.

1 Sir, I have touched upon it, but if the London
2 Development Agency through its advocate considers that
3 a six week period is too short a time to involve an
4 expert, whose identity, and indeed professional views
5 are as yet unknown, then we of course would regard
6 a longer period as acceptable. But the application was
7 made on the basis of a six week period in order to
8 minimise any disruption, such as it causes disruption,
9 to the intended inquiry process.

10 Again, unless there are matters of detail upon which
11 I can assist, that is all I intended to say by way of
12 a response.

13 THE CHAIRMAN: Thank you. That is very helpful. I am now
14 going to adjourn to consider the matter, and I will
15 return here at 3 o'clock.

16 (1.50 pm)

17 (A short break)

18 (3.00 pm)

19 Ruling

20 THE CHAIRMAN: The inquiry is resumed, and thank you for
21 your prompt return.

22 I have considered the application made on behalf of
23 the group of Clays Lane residents. In short, the
24 application seeks to defer the continued hearing of the
25 case for local residents for a period of six weeks.

1 When I heard the first application on Wednesday
2 17th May, I ruled against deferment on two principle
3 grounds. The first was there was no positive indication
4 of likely funding within the period that the inquiry was
5 scheduled to sit. The second one was, I was satisfied
6 that the residents of Clays Lane could receive a fair
7 hearing without legal or other professional
8 representation.

9 In the light of that ruling, I invited local
10 residents to a meeting to discuss their appearance at
11 the inquiry, and to devise a procedure to suit their
12 needs. Local residents and the LDA agreed to proceed on
13 the basis of an informal round table discussion, with
14 the LDA's legal representatives having no role other
15 than observing proceedings. The first of those sessions
16 took place earlier this week, and I am grateful for the
17 positive feedback.

18 In my earlier ruling, I also indicated that should
19 there be a material change of circumstances relating to
20 funding, I would be prepared to give further
21 consideration to the matter of deferring hearing the
22 case for the residents of Clays Lane. The question to
23 be answered this afternoon is whether there is now
24 a sufficient basis to grant that deferment.

25 I am told that the Legal Services Commission has

1 made a positive recommendation for funding. Whilst that
2 does not directly resolve the matter, Irwin Mitchell has
3 undertaken to underwrite the cost of legal and
4 professional representation. To my mind, the very
5 uncertain aspirations of some three weeks ago have been
6 transformed into a clear intention to provide legal
7 representation and other professional support. On that
8 basis, I am satisfied that there has been a material
9 change in circumstances sufficient to justify suspending
10 hearing the case for the residents of Clays Lane to
11 allow legal representation and the preparation of
12 evidence on their behalf.

13 I have considered the point raised by Mr Roots that
14 the process of the round table sessions might continue,
15 and that with the aid of the transcripts and matters
16 arising or any omissions could be dealt with in due
17 course by the appointed representatives. However, that
18 must be a matter for the local residents to consider
19 with their advisers. I do not close the door to such
20 procedures, or indeed to concluding the case with a mix
21 of formal and informal sessions.

22 In agreeing to this deferment I make it clear that
23 this is not open-ended, and the application was
24 reasonably and fairly made on the basis of seeking
25 a period of six weeks. I see no reason why that should

1 result in insurmountable problems, and that Mr Wald was
2 genuinely content with the timetable for the submission
3 of a statement of case and a proof whilst allowing the
4 LDA time to respond.

5 In this regard, the hearing of the case will be
6 set-down to commence on 25th July at 10 o'clock.
7 A statement of case should be submitted by no later than
8 23rd June. That is two weeks tomorrow.

9 Proof or proofs of evidence will be required on
10 behalf of the objectors by 12th July. That is slightly
11 longer than the 28 days, because it takes it to
12 four weeks next Wednesday.

13 The LDA's response should be made by the 19th July.
14 That will allow them a week to respond, and the papers
15 will be with the Inspectors a few days before the
16 hearing starts.

17 Irwin Mitchell should also keep in regular contact
18 with the programme officer on at least a weekly basis.

19 If the residents and their advisers decide that
20 non-technical matters, for example, can be dealt with by
21 a round table session, it might well be possible to
22 accommodate one or more sessions before the formal
23 inquiry appearance.

24 There are one or two other matters that I need to
25 deal with. Mr Wald, in your indication that there were

1 some 47 objectors who wished to be represented, you
2 should be aware that that number exceeds the number of
3 objections made by residents at Clays Lane. I am not
4 certain that anything is likely to turn on that other
5 than their status at the inquiry, i.e., as non-statutory
6 objectors.

7 In terms of the submission of relevant
8 correspondence in relation to the application for
9 funding, albeit in redacted form, on the basis that
10 Irwin Mitchell has confirmed their position in
11 underwriting the funding, I see no reason to formally
12 require the submission of those documents.

13 One further matter. In relation to the statement of
14 case, I would like an indication at the point that that
15 is submitted whether there is a likelihood that part of
16 the case might be heard by continuing with the round
17 table sessions. The statement of case should identify
18 those matters which would be desirable at a formal
19 inquiry session, and those matters that might be dealt
20 with as a round table.

21 Also at that stage, it would be helpful to have
22 a preliminary estimate of the amount of inquiry time
23 needed.

24 That concludes my ruling. Mr Wald, are there any
25 matters arising?

1 MR WALD: Sir, no. I was going to touch upon the matter of
2 the amount of time required, but since you have dealt
3 with that in your ruling, as accurate an indication as
4 possible will be supplied at that time, together with
5 the identity of those experts from the LDA which whoever
6 is handling the case would like to cross-examine.

7 THE CHAIRMAN: That would be helpful. If that indication
8 can be given at the statement of case stage, then
9 clearly it allows the LDA time to put their witnesses on
10 notice.

11 MR WALD: Sir, indeed. We will make sure that that is done.

12 THE CHAIRMAN: Thank you. Mr Roots, are there any matters
13 arising?

14 MR ROOTS: Just a few, sir. First of all, can I put down
15 a marker that it is obviously highly desirable in the
16 circumstances that the statement of case should not
17 simply be going through the motions, but should
18 genuinely indicate the matters which the residents wish
19 to put, and if there are any different points, then it
20 should encompass all of them, because we are all going
21 to have to prepare on a fairly tight timescale.

22 THE CHAIRMAN: I can confirm that I will be looking at the
23 statement of case critically on submission, and no doubt
24 you are aware of what constitutes a statement of case,
25 but I know from experience of a number of inquiries,

1 there are various interpretations as to what constitutes
2 a statement of case. It is a full indication of the
3 matters to be put to the inquiry, and that is the basis
4 that I would expect the statement of case to be.

5 MR WALD: Sir, in case it helps, I can confirm that it was
6 not the intention to simply go through the motions, but
7 to supply as much detail as we possibly can at that
8 point.

9 THE CHAIRMAN: That would be very helpful. Thank you.

10 MR ROOTS: Sir, the second point was that as to the
11 availability of witnesses for cross-examination, I have
12 to reserve our position. We will obviously make
13 witnesses available if we can, but this has arisen at
14 a very late stage. I do not know of our witness team
15 who has other commitments by then, because we were not
16 expecting the inquiry to be going on on those dates.
17 When we get the statement of case and see the topics to
18 be covered, if someone is not available, we will see if
19 somebody else can cover that topic.

20 THE CHAIRMAN: That would be very helpful.

21 MR ROOTS: So it is not our intention to be difficult, but
22 I am just putting down the marker that we did not expect
23 to have the witness team available, and they will have
24 a pretty heavy work load.

25 THE CHAIRMAN: It is a fair point to make.

1 MR ROOTS: Sir, finally, without asking you to arrange this
2 at this stage, it just might be that when we have the
3 full statement of case, that a mini pre-inquiry meeting,
4 as it were, in other words a meeting of representatives
5 a few days after receipt of statement of case to decide
6 how best to deal with it procedurally, might be
7 constructive.

8 THE CHAIRMAN: I can confirm that I would be prepared to do
9 that, as I did in setting up a mini pre-inquiry meeting
10 before hearing any part of the case from the residents
11 of Clays Lane. But that was extremely productive, and
12 if it is needed to resolve any matters relating to the
13 appearance, discussion as to whether there might be
14 certain matters that are suitable for a round table and
15 the like, then I am quite happy to facilitate that.

16 MR ROOTS: That is all from me.

17 THE CHAIRMAN: Mr Wald, anything arising from that?

18 MR WALD: Sir, no.

19 THE CHAIRMAN: Thank you. Anything arising so far as the
20 residents are concerned?

21 MR CHEYNE: I would just like to thank you for your
22 decision.

23 MR SANDISON: Yes.

24 THE CHAIRMAN: Thank you. Yes, Mr Armstrong.

25 MR ARMSTRONG: One thing that was apparent from the meeting

1 that we had on Tuesday, which may not be apparent to
2 everybody who is present now, is that there were certain
3 matters and certain pieces of information that were
4 requested from the residents on Tuesday that were to be
5 produced today, with particular regard to the kind of
6 contingencies that were to be considered for
7 accommodating the Clays Lane residents in a move, or in
8 retaining their place in proximity to the overall
9 planning of the Olympic and Stratford railway lands.

10 These obviously cannot be produced today, but I
11 would feel much more confident of the LDA's willingness
12 to proceed in a like-for-like manner if those documents
13 which were requested by the residents were made
14 available at the same time as the statement of case.

15 THE CHAIRMAN: So far as anything that arose on Tuesday,
16 that will be covered in terms of the transcript. I see
17 no reason at this present point in time to direct the
18 production of documents to coincide with the statement
19 of case. I think in terms of fairness that it would be
20 appropriate to have the statement of case, and then for
21 the LDA to consider their position in the matter.

22 MR ARMSTRONG: Thank you very much.

23 THE CHAIRMAN: So it will not have been lost sight of. What
24 I should also say is that so far as the discussions at
25 the round table session on Tuesday, those will stand as

1 being part of the inquiry. We cannot erase those from
2 our memories, so they are before the inquiry. At least
3 the appointed advisers will have the benefit of the
4 transcripts. If there are matters that need to be
5 revisited, if there has been matters omitted, then
6 clearly there will be the potential to cover that, but
7 there is no need to repeat all of the evidence and all
8 of the questions that were raised at that particular
9 session.

10 Mr Roots?

11 MR ROOTS: No, nothing further to say.

12 THE CHAIRMAN: Nothing further. Mr Wald, nothing further?

13 MR WALD: Nothing from me either, thank you.

14 THE CHAIRMAN: On that basis I thank you all for your
15 attendance this afternoon, and the inquiry is now
16 adjourned until 9.30 tomorrow morning. Unless Mr Roots
17 is going to tell me there are any procedural matters he
18 wants me to deal with now?

19 MR ROOTS: No, sir; I was just waiting for you to make clear
20 what was happening tomorrow morning in the light of your
21 ruling, but you have done now.

22 THE CHAIRMAN: I am grateful. Thank you all very much.

23 (3.17 pm)

24 (The Inquiry adjourned until 9.30 am on Friday,
25 9th June 2006)

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