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Wednesday, 2nd August 2006

(12.30 pm)

THE CHAIRMAN: Ladies and gentlemen, good afternoon. The Inquiry is now resumed. As you know, this Inquiry is into the London Development Agency (Lower Lea Valley, Olympic and Legacy) Compulsory Purchase Order 2005. My name is David Rose and I am the Lead Inspector appointed by the Secretary of State.

Today I will continue to hear the collective case for the residents of the Clays Lane Estate. I should also announce that today is day 40 of the Inquiry, so appropriate to announce the milestone. Of course, today is day 4 of the collective appearance from Clays Lane.

Before we begin, any procedural housekeeping matters?

MR WALD: No, sir.

THE CHAIRMAN: On that basis we go straight into cross-examination of Mr Gaskell. Mr Wald, I would invite you to begin, please.

MR GASKELL (continued)

Cross-examination by MR WALD

MR WALD: Thank you very much. Good afternoon, Mr Gaskell.

A. Good afternoon.

Q. Could I start off by understanding when you were first involved in this matter, please?

1 A. As I say, my first involvement in this matter  
2 was October 2005.

3 Q. So insofar as you are able to give answers that relate  
4 to events before that date, they rely on documents, do  
5 they?

6 A. They rely both on documents and obviously discussions  
7 with the individuals responsible at that time.

8 Q. In terms of relocation, you are the main person who was  
9 responsible for the task of relocation, is that fair?

10 A. That is right, yes.

11 Q. And what was Mr Cahill's role?

12 A. Mr Cahill is the case officer for residents there, so he  
13 works with me. He is both housing policy manager at the  
14 LDA, in general terms, and the case officer for  
15 residents down there.

16 Q. Right. He has not produced a written proof of evidence  
17 or appeared at the Inquiry. Are you able to answer all  
18 the matters that he would be able to answer?

19 A. I hope so.

20 Q. You hope so, okay.

21 A. I expect so.

22 Q. Let us see. I am going to start off with events before  
23 your involvement, October 2005. I am afraid I am going  
24 to go back to the Winterbottom letter with which you are  
25 now presumably quite familiar?

1 A. Yes.

2 Q. In fact, we have looked at two Winterbottom, letters,  
3 have we not?

4 A. Yes, we have, one to John Lynn and one -- I should point  
5 out I was working on the Olympics at that time but not  
6 residential relocation so I am aware of the general  
7 context of this.

8 Q. Did you know that you were going to be involved in  
9 relocation at that point?

10 A. I was involved in relocation at that time; I was not  
11 involved in residential relocation at that time.

12 Q. Okay, so you were not made aware of the promises that  
13 were made at that time?

14 A. I was not involved in the writing of that letter and  
15 everything else.

16 Q. No, I did not mean that. When did you first become  
17 aware of the promises made by Mr Winterbottom?

18 A. I first became aware of the promises made by  
19 Mr Winterbottom when I took over the project and I think  
20 Mr Cheyne raised it with me in probably in the first  
21 piece of correspondence between the two of us.

22 Q. So October 2005?

23 A. That would be a fair estimate yes.

24 Q. And is that the time that you became aware of the Mayor  
25 of London's promises?

1 A. I do not think the Mayor had necessarily given his  
2 statements then because we had not drafted them until  
3 I was taken on. So ...

4 Q. Well, we are talking about a month's difference.  
5 I think it was in November of 2005 that the Mayor  
6 supplied answers to questions?

7 A. That is right. As I say, that is when I was involved in  
8 the project so I am aware of those.

9 Q. Are you responsible for the production of the  
10 newsletter?

11 A. Yes.

12 Q. Why does the newsletter alter the promises that were  
13 made by Mr Winterbottom and the Mayor?

14 A. I do not think it does. I think clearly,  
15 Mr Winterbottom's letter was produced in 2004. We then  
16 had a period with the Fluid Survey being carried out.  
17 I have referred to this in my evidence. What that says  
18 is -- what was apparent at that point was that given the  
19 subjective nature of what Mr Winterbottom had said,  
20 which was that ...

21 Q. It is in document 248.1.34.

22 A. Thank you.

23 Q. I think you and I have the system of documents.

24 A. Yes, it may help. So Mr Winterbottom's statement that  
25 the LDA was responsible for ensuring that people are

1 rehoused in suitable accommodation that reflects their  
2 individual needs and is at least as good as, if not  
3 better than their existing accommodation; that was made,  
4 as you see, on 18th June 2004 in that letter.

5 Q. Yes.

6 A. You then had the Fluid survey commissioned. What was  
7 apparent then was that people's interpretation of "at  
8 least as good as if not better" was plainly a subjective  
9 matter, that certain people as they went around  
10 interviewing people were attaching different importance  
11 to that. As we have heard in the Inquiry, people  
12 started to talk about equivalence in terms of design,  
13 equivalence in terms of rents, which I have to say at  
14 this Inquiry is probably the first time anybody has  
15 suggested to me that Mr Winterbottom's statement was  
16 taken as a promise on rents. But be that as it may, I  
17 think the general impression was that a lot of people  
18 were attaching a lot of importance to that statement,  
19 that there was a feeling that it went beyond -- that  
20 people would be getting an exact replica of Clays Lane.  
21 Clearly, that is not the case. So what we did in the  
22 Fluid result, the Fluid survey, is try and clarify that,  
23 which is where you get the other survey. That  
24 was January 2005 that that was issued to residents.

25 What the newsletter does -- and I assume you are

1 referring to the November 2005 newsletter --

2 Q. I am.

3 A. -- is to seek to again reiterate what had been made  
4 clear in January 2005. As far as I am concerned, it  
5 does not seek to change any promises. The point remains  
6 that the LDA still expects that properties being offered  
7 to residents will be at least as good as, if not better,  
8 by any objective measure. But it does recognise, as I  
9 have said, that this is a subjective matter for people.  
10 Certain people put certain importance on certain things,  
11 and it is a matter of choice.

12 Q. Mr Gaskell, you have taken us to the Fluid Survey. You  
13 will not be surprised to hear that we were going to the  
14 Fluid Survey anyway. But I would like to focus if we  
15 can -- it may be helpful if we step back from the  
16 documents for a moment.

17 2004, there was a statement in a letter from  
18 Mr Winterbottom.

19 A. Yes.

20 Q. We have been calling it a promise, but it is "at least  
21 as good as if not better"?

22 A. That is right.

23 Q. And you say that residents had placed importance on that  
24 phrase?

25 A. It was apparent in 2004 that residents were starting to

1 place importance on that phrase. I think, from my  
2 involvement, in October 2005, only initially one  
3 resident was still placing importance on that phrase.  
4 A number of other residents, as we have heard from  
5 Mr Sandison, understood that implicit within the phrase  
6 was the fact that it would be only as far as is  
7 reasonably practical. That was certainly my experience  
8 in the meetings I went to. But this letter has  
9 continued to be raised with me by Mr Cheyne, I have  
10 continued to speak to Mr Cheyne about that and about the  
11 clarification provided in January. So I think, yes,  
12 what I said was that it was apparent in 2004 that  
13 residents were starting to place importance upon that  
14 and that we needed to clarify exactly what we had meant  
15 when we wrote that.

16 Q. All right. I do not want to get into the business with  
17 you of second guessing the degree of importance that was  
18 placed by individual residents on this phrase.

19 A. I think the phrase "second guessing" would suggest that  
20 I am not out there talking to residents, and I am, so  
21 I am fairly clear, from the residents that I have spoken  
22 to, exactly what sort of importance was being placed on  
23 this phrase. Mr Cheyne places a great deal of  
24 importance on this phrase. I do not find that other  
25 residents do.

1 Q. Mr Gaskell, I would like to ask you a question, please.  
2 In the November newsletter there is a different use of  
3 words. At least that we can agree; yes?  
4 A. The November newsletter uses the same words as were  
5 included in the Fluid Survey.  
6 Q. I am not talking about the Fluid Survey. I am talking  
7 about a letter of June 2004. The words used change, do  
8 they not?  
9 A. Yes. Yes, they do and it quotes the Fluid Survey and it  
10 gives the reference within the newsletter.  
11 Q. Mr Gaskell, this should be a short point. There is  
12 a difference in meaning, is there not, between "at least  
13 as good, if not better" and that with the addition of  
14 "so far as practicable"?  
15 A. I think it makes explicit what was implicit, yes.  
16 Q. Are you surprised that residents, no matter how many,  
17 that any residents placed emphasis and importance on  
18 this promise in this letter?  
19 A. I am -- no, I am not surprised that residents expect to  
20 receive accommodation that is at least as good as if not  
21 better than what they are getting --  
22 Q. That is not what I asked you.  
23 A. Sorry.  
24 Q. Mr Gaskell, a promise was made in June 2004.  
25 A. So you say.



1 Q. A statement was made in June 2004.

2 A. All right.

3 Q. It relates to the future of residents and their homes.

4 A. Yes, and that is something that we take seriously.

5 Q. It is not surprising that those residents would place

6 importance on that statement, is it?

7 A. No, and --

8 Q. Thank you.

9 A. -- I find that the majority of residents understand that

10 statement as per the clarification given.

11 Q. By the time of the November newsletter, that statement

12 includes a qualification. What you say is --

13 A. By the time of the January survey that statement had

14 already included a qualification. The November

15 newsletter makes that clear.

16 Q. I am going to turn to the Fluid Report in a moment, but

17 it is right, is it not, that by the time of the November

18 newsletter, the statement is, you say clarified; we say

19 qualified, yes?

20 A. Yes.

21 Q. If they are one and the same, why was there a need for

22 clarification at all?

23 A. Because, as I have said, certain residents felt it was

24 implicit within that; other residents, and I have talked

25 through who that is, did not feel that it was implicit

1           within that, therefore we needed to clarify it. The  
2           idea that we can provide absolutely accommodation at  
3           least as good as if not better, when it goes beyond what  
4           is practicable is clearly not something we can do, and  
5           we have to be quite clear -- within that letter is the  
6           obligation to give clear communication. Again,  
7           something we take seriously, and we felt the need to  
8           clarify, to give clearer communication to residents at  
9           that time.

10       Q. Mr Gaskell, did anybody require Mr Winterbottom to make  
11       the statement that he did on 18th June 2004?

12       A. No.

13       Q. It was offered voluntarily, was it not?

14       A. That is right.

15       Q. That which is offered voluntarily should be supplied; do  
16       you agree with that?

17       A. I am sorry, I do not understand.

18       Q. That which is offered voluntarily, here the statement  
19       that at least as good as, if not better, accommodation  
20       would be supplied, that should be supplied, should it  
21       not?

22       A. And we intend to do that as far as practicably possible.

23       Q. And you are now saying that in certain cases, practical  
24       limitations will result in a person possibly getting  
25       a worse accommodation?

1 A. What I am saying to you is I that do not expect  
2 practical circumstances to result in people getting  
3 worse accommodation. I recognise, however, that it is  
4 subjective to people, and I am not in a position to  
5 guarantee for everyone that the practical limitations  
6 out there, when you are trying to develop relocation  
7 solutions for people, will mean that they expect that --  
8 that they feel they have a better property. I am not  
9 aware of anyone who has not got a better property at the  
10 moment, but I am quite clear that I am not in a position  
11 to guarantee that, given the subjective nature of what  
12 we are discussing.

13 Q. Have you read Mr Cheyne's proof of evidence?

14 A. I have read Mr Cheyne's proof of evidence.

15 Q. Do you recall the section within it that deals with  
16 those who have been relocated and are unhappy with their  
17 relocations?

18 A. Do you want to take me through it?

19 Q. Of course I would like to, yes. Could you get a copy of  
20 Mr Cheyne's proof of evidence in front of you, please.

21 MR PEREIRA: What section are we dealing with?

22 MR WALD: 57.5, page 31.

23 A. Sorry, I was on page 36.

24 Q. Do you want to refresh your memory as to what is said in  
25 57.5. (Pause)

1 A. Yes.

2 Q. Do you know who those people are that are referred to in  
3 the paragraph?

4 A. No, I do not.

5 Q. Have you ever sought to find out?

6 A. I have asked CBHA. CBHA are not aware of these issues.  
7 Obviously, as I gave my evidence yesterday, where these  
8 are raised with me, however tangentially, I have sought  
9 to investigate them. I am not aware, as I said in my  
10 earlier answer, of anyone that is not happy with where  
11 they have relocated to.

12 Q. Ever think to ask Mr Cheyne?

13 A. I have asked Mr Cheyne. He has not given me any names  
14 yet.

15 Q. When did you ask and in what form?

16 A. I asked verbally when he verbally reported these issues  
17 to me. I would add that I am still happy to look into  
18 these, obviously. It is an ongoing process.

19 Q. Right, we will come back to that. Did he tell you about  
20 someone called Roxanne?

21 A. No, I do not remember that.

22 Q. Phil Hartley?

23 A. No, he certainly did not mention --

24 Q. Do you remember yesterday Mr Goemans was asked about the  
25 identity of people unhappy with their relocations?

1 A. I remember he was not able to give any identity.

2 Q. Are you surprised that Mr Goemans is unable to supply  
3 that evidence?

4 A. I am surprised that no-one has been able to provide that  
5 evidence to date.

6 Q. I have just told you some of their names.

7 A. That is the first time those names have been provided.

8 Q. I am instructed that Mr Cheyne gave you those names  
9 before today.

10 A. How and in what way? I am not aware of that.

11 Q. You say it is an ongoing process?

12 A. That is right.

13 Q. New build was contemplated at the outset; yes?

14 A. And still is.

15 Q. How long would it take for new build to be realised,  
16 including planning, design, all the aspects of it?

17 A. Timescales for new build obviously depend on where you  
18 are starting, and where -- and how big a development you  
19 are looking to put in place. I think there are a range  
20 of different aspirations out there for a new build  
21 property, the same as there are a range of different  
22 aspirations out there for group housing. A number of  
23 residents are keen to have access to design. That in  
24 itself will throw up issues of timescale. Other  
25 residents are interested in new build housing, full

1 stop. Some are looking at properties for between 40 and  
2 50 residents, some are looking for up to ten residents.

3 So I do not think there is a general rule in terms  
4 of how long that will take. I do not expect, unless we  
5 are through planning and have a site with contractors on  
6 board, to be able to provide anything by July 2007.

7 I think that is not disputed.

8 Q. That you would miss that deadline?

9 A. Yes.

10 Q. And that is the date by which residents would have to  
11 move?

12 A. That is right.

13 Q. Not ideal, is it, in terms of the missing of time lines?

14 A. As I say, I think it depends on -- it is not ideal.

15 That is the first thing, but I think you have to be  
16 clear it is about choices for residents, and this goes  
17 back to something we have made clear to residents from  
18 the start.

19 If residents want new build rather than  
20 refurbishment that has its own timescales. If residents  
21 want to move as part of a large group and there is  
22 a large group they are interested in, if that is the  
23 case, there are longer timescales. But if you are  
24 looking at refurbished property, that gives you the  
25 scope for community moves, that allows you to move with

1 people that you feel are important to you, that can be  
2 done without any need for double decant.

3 Q. Double decant is something that one would avoid if  
4 possible; yes?

5 A. It depends on circumstances. Sometimes it might be  
6 inevitable.

7 Q. It is additionally disruptive to residents, is it not,  
8 in having to move twice?

9 A. That is right, so in line with what we want to do, in  
10 terms of minimise disruption, we certainly would not  
11 want to force anyone down that route, but if people  
12 choose to go down that route then we make them aware of  
13 what that implies and give them option. We also try and  
14 ensure, as we have previously discussed, that those that  
15 were subject to a double decant, except for the double  
16 move, are no worse off than those who choose not to go  
17 through a double decant. Some residents choose, because  
18 they are interested in what a community group move will  
19 allow them to do, will choose to do a double decant.  
20 That is, for them, the cost. It is all about  
21 opportunities and costs for residents and they have to  
22 make those choices in a real world situation.

23 Q. Have any residents requested double decant?

24 A. Some residents -- yes. "Requested" is an interesting  
25 use of words. Some residents, to get what they want out

1 of the group move -- I am thinking specifically of those  
2 interested in a move to Royal Quay -- are prepared to  
3 consider double decant as they recognise that that is  
4 inevitable now.

5 Q. Which residents have requested a double decant?

6 A. No residents have requested a double decant. Some  
7 residents are interested in a double decant if it allows  
8 them to get to where they want to be.

9 Q. It is a matter of facing the reality of delays in the  
10 system up until today, is it not?

11 A. It is a matter of the timescales involved in delivering  
12 people access to design, in a meaningful way, prior to  
13 starting construction. If you want access to design,  
14 then you have to get involved before planning has been  
15 achieved. If you want to get involved before planning  
16 is achieved, you are then in the hands of planning risk  
17 and how long the local planning authority are going to  
18 consider it. The more ambitious requirements in terms  
19 of planning, the more we go for something equivalent to  
20 Clays Lane, the less likely we are to get consent from  
21 local authority because people simply are not building  
22 at that density or that kind of design any more. People  
23 are not interested in the sort of monoculture of  
24 one-person housing any more, so you have to go into far  
25 greater pre-application discussions with the local



1 authorities. So I think, you know, that sets the  
2 context for the timescales involved.

3 Q. Can you turn to the time lines in the Fluid Report,  
4 please. The LDA has missed them, has it not?

5 A. Which?

6 Q. The relocation strategy approval time line.

7 A. Yes. We do not have a relocation strategy approval.

8 Q. Again, not ideal, is it?

9 A. It is not ideal, but again, I do not think it is  
10 necessarily a problem that is prejudicing residents out  
11 there. 106 residents have relocated. The relocation  
12 strategy is ongoing.

13 Q. Well, do you mean an informal relocation strategy?

14 A. No, I mean the relocation strategy that the LDA is  
15 adopting, that which is enshrined within the strategic  
16 document required by the local planning authority.

17 Q. Are you talking about the Grampian condition that  
18 requires a relocation strategy to be in place before the  
19 commencement of works?

20 A. Which, as I discussed yesterday, I see as distinct from  
21 the LDA's relocation strategy.

22 Q. Mr Gaskell, it will help certainly me, and probably the  
23 Inquiry, if you answer my question first and then add  
24 the comment afterwards.

25 A. Sorry.

1 Q. You are talking about the Grampian condition that  
2 requires a relocation strategy to be in place and  
3 approved before the commencement of works?  
4 A. No, I was not.  
5 Q. Well, what are you talking about?  
6 A. I am talking about the relocation strategy that is  
7 ongoing at the moment, which is a body of work being  
8 undertaken by the LDA to relocate tenants.  
9 Q. Which is not the subject of approval by the relevant  
10 authorities?  
11 A. No, but the relocation strategy linked to the Grampian  
12 condition is a document that enshrines the actions that  
13 we are doing there and is subject to that approval.  
14 Q. And was found wanting when considered by the  
15 authorities?  
16 A. It has not been considered by the authorities and I  
17 would dispute whether it has been found wanting.  
18 Q. Has a relocation strategy not been submitted and  
19 rejected by the local authorities?  
20 A. No.  
21 Q. Do you dispute that the authorities said there was a  
22 problem with the monitoring aspects of the relocation  
23 strategy?  
24 A. No, as I said yesterday in my evidence, we were in  
25 discussions with the local authorities when the decision

1 was taken by them not to consider it. Monitoring was  
2 one issue in that, which was capable of resolution. The  
3 other issue with that was the effect on local housing  
4 stock and the issue of incentivisation, and that has  
5 only just been resolved.

6 Q. How important to you regard the involvement of residents  
7 themselves as consultees to this process?

8 A. I think that that is important. We have to be clear  
9 what we mean by consultation. Clearly within the  
10 relocation strategy there are a set of principles and  
11 parameters laid out by the local authority we are  
12 required to meet. That had been set out through  
13 consultation with residents beforehand. Then there was  
14 the Fluid Survey which basically underpins the  
15 relocation strategy that we are bringing forward, the  
16 CBHA survey similarly feeds into that, the September  
17 consultation --

18 Q. Are they complementary, the Fluid survey and the CBHA  
19 survey?

20 A. They certainly are.

21 Q. And the Fluid Survey sought to identify the individual  
22 needs of residents, did it not?

23 A. It sought to help us to understand the individual needs  
24 of residents. You would not be able to take  
25 a resident's Fluid Survey and find them a property on

1 the back of that. What it did do was enable us to  
2 find -- create the opportunities that most closely  
3 matched the aspirations that residents were expressing  
4 at an individual level.

5 Q. If, as you say, the answers to the questionnaire were  
6 confidential to Fluid, and could only be considered by  
7 Fluid, in what sense are the CBHA Survey and the Fluid  
8 Survey complementary?

9 A. There are two points in response to that. Firstly, the  
10 LDA has never said that the response to the Fluid Survey  
11 was confidential to Fluid. We have those responses and  
12 we have always held those responses. But they are  
13 confidential to the person who gave those responses.  
14 Secondly, the Fluid Survey dealt with a wide range of  
15 issues. The CBHA survey started to narrow it down and  
16 talk about specific areas and specific property types  
17 that were not covered in the Fluid Survey.

18 Q. Do you want to have a look at the November newsletter,  
19 please?

20 A. Certainly.

21 Q. It is document 35. You have just said in answer that it  
22 has never been stated that the answers to questionnaires  
23 were confidential to Fluid.

24 A. That is right.

25 Q. Is that not what is stated in the second column under

1 the Rehousing Alliance?

2 A. No, I do not believe it is. What it is saying is this  
3 information has been supplied to Fluid and they are  
4 reluctant to pass it on to other individuals without  
5 individual resident's consent. They were not reluctant  
6 to pass it on to the LDA. As I say, we already had the  
7 documents at that time.

8 Q. Again, we are going to get into a problem of textual  
9 exegesis here, but can we go back to the words --

10 A. I think --

11 Q. Mr Gaskell, can we go back to the words that are used in  
12 the newsletter, please?

13 A. Yes.

14 Q. "This information has been supplied on a confidential  
15 basis to Fluid and they were reluctant to pass it on  
16 without individual resident's consent."

17 It does not say "pass it on to residents"; "pass it  
18 on at all" is what is stated there?

19 A. "Pass it" on is what is stated there.

20 Q. It is different from what you have just said, is it not?

21 A. Neither does it say "pass it on at all", so that is  
22 different to what you have said, is it not? It just  
23 says, "pass it on".

24 Q. As far as you are aware, has any resident sought to see  
25 the answers to a questionnaire compiled by another

1 resident?

2 A. My understanding is that we have not allowed anyone to  
3 do that and we have made it clear that that is not  
4 allowed.

5 Q. That was not my question, Mr Gaskell?

6 A. My understanding is that no resident has specifically  
7 requested another resident's by name.

8 Q. Of course not. So no confidentiality issue arises in  
9 that regard. The issue here is whether Fluid shares the  
10 results of what is regarded as a full questionnaire with  
11 those bodies charged with supplying rehousing.

12 A. And they have.

13 Q. Did the LDA seek consent from individuals as to what is  
14 done with their questionnaire answers?

15 A. The LDA has made clear to residents that if they wish to  
16 give their consent, they can have their answers released  
17 to them.

18 Q. Is that in evidence anywhere?

19 A. It is in Julian Cheyne's evidence, I believe.

20 Q. Where?

21 A. I believe it was mentioned in his evidence-in-chief, but  
22 without going to the transcript ... I obviously was not  
23 here. But he pointed out -- I understood that he  
24 pointed out that he had asked for his documents and they  
25 were released to him. Mr Pereira put it to him that he

1 had gone through a lengthy process to have it released  
2 to him and had not read it, and Julian said that he had  
3 not read it. That is my recollection.

4 Q. Mr Gaskell, that all relates to Mr Cheyne's  
5 questionnaire. I am talking about questionnaires  
6 generally. Were consent forms distributed by the LDA  
7 amongst residents to establish with clarity whether they  
8 were prepared to have their questionnaire responses  
9 passed on?

10 A. No.

11 Q. All right. Thank you for that. I am informed that you  
12 were told of Roxanne at a CLOM meeting. Do you remember  
13 that?

14 A. I believe that we were informed of general details. I  
15 do not remember having a name.

16 Q. Not we; you, Mr Gaskell?

17 A. Sorry, I believe I was informed, everyone at the meeting  
18 was informed of those general details and I was not  
19 given a specific name.

20 Q. All right. I suppose I will have to make a submission  
21 on that.

22 Mr Gaskell, you say it is an ongoing process, but as  
23 delays accumulate -- and you have held up your hands to  
24 the missing of the Fluid time lines; yes?

25 A. You asked me about the relocation strategy.

1 Q. Yes, I did. That arrow that we see on the time line is  
2 a period of consultation. That is the intention of it,  
3 is it not?

4 A. No.

5 Q. What do you believe was anticipated would happen within  
6 that time period?

7 A. I believe what was anticipated within that time period  
8 is exactly what happened, that during that period -- the  
9 consultation is dealt with in the lines above. I think  
10 within that period the idea was, as actually happened,  
11 that the LDA would be working to deliver the material  
12 that sits behind the relocation strategy. The document  
13 is only as strong as the options being made available to  
14 residents.

15 Q. Do you see beneath that line we have looked at, under  
16 the Clays Lane relocation programme, a bullet point  
17 "Consultation with residents on possible rehousing  
18 solutions"?

19 A. October 2004.

20 Q. Do you see it?

21 A. Yes, I do.

22 Q. Two months on from the start of the relocation strategy  
23 approval we have the beginning of the period of  
24 consultation, have we not?

25 A. Yes.



1 Q. So that should have gone on throughout that arrow,  
2 should it not?

3 A. Yes, and I am happy that it did.

4 Q. You are happy that it did? What form did it take? What  
5 is the evidence of that consultation process having been  
6 conducted with residents?

7 A. The consultation process was led by the September  
8 events, so that was a major part of the consultation.  
9 We put before residents at that event the rehousing  
10 options that we were developing for them and received  
11 feedback from residents on that.

12 Q. Was that the start of it?

13 A. No, the Fluid Survey was the start of it.

14 Q. Wait a minute. We are looking at the Fluid Survey  
15 results here?

16 A. Yes.

17 Q. So we are talking about a date after the Fluid Survey.  
18 You have talked about the September meetings?

19 A. I have talked about the Fluid Survey and the September  
20 meetings.

21 Q. The September meetings are September 2005, are they not?

22 A. Yes, but you are aware that the Fluid Survey is being  
23 published in April 2005, so we are well within that  
24 arrow at the point that those surveys are being  
25 completed and published. That time line goes back

1 beyond the start of the ...

2 Q. The residents were sent a summary of the Fluid Survey in  
3 January 2005?

4 A. Yes.

5 Q. After that date, there is no consultation until, if it  
6 is at all consultation, at the September meetings that  
7 you have referred to; that is fair, is it not?

8 A. There are no formal consultation events. We are  
9 still -- the LDA, through Aaron at that time primarily,  
10 are still receiving responses from residents about the  
11 rehousing process and how they intend to go forward.  
12 I think Mr Goemans in his evidence suggested that the  
13 consultation would not just be formal but would be  
14 informal and I think that is quite right.

15 Q. What type of informal consultation was ongoing through  
16 that period?

17 A. Feedback from residents as the work progressed.

18 Q. Can you show us any document that shows us that that was  
19 happening in 2005?

20 A. As I say, it is not a document, it is a consultation.

21 Q. Well, can you give us examples of that informal  
22 consultation process going on through 2005?

23 A. In general terms residents were speaking with the LDA,  
24 Mark Channon and Lucy Webster, referred to by Mr Cheyne.  
25 They were speaking to Aaron, as he got involved in it,

1 and were giving their views on the rehousing options  
2 that they wished to see pursued for them.

3 Q. Those two individuals were in contact with Mr Cheyne,  
4 were they not?

5 A. They had been in contact with Mr Cheyne.

6 Q. That was before Fluid, was it not?

7 A. And they remained dealing with the project after that,  
8 they certainly did.

9 Q. That is not what I am instructed. Do you have anything  
10 to back up your assertion that they were in  
11 contact after the --

12 A. With residents?

13 Q. Yes, with any residents at all.

14 A. Hold on a second.

15 Q. Thank you.

16 A. I do not have the documents with me that I expected to  
17 have.

18 Q. Are you aware of an e-mail that Mr Cheyne sent to  
19 Lucy Webster to try and ascertain what was going on with  
20 regard to consultation in April 2005?

21 A. I am not.

22 Q. I will take you to it in a moment. Have a look at  
23 document 63, please.

24 THE CHAIRMAN: Can you give me a page number for that?

25 MR WALD: Sir, our key indicates that it is at tab 11.

1 MR PEREIRA: What are we looking for?

2 MR WALD: Document 63.

3 THE CHAIRMAN: Page 304.

4 MR WALD: 304, thank you. Do you see the second e-mail that

5 Mr Cheyne has sent to Lucy Webster?

6 A. Yes, thanking her for her reply and information.

7 Q. Have you seen it before?

8 A. No. Well, only I have seen this e-mail before because

9 I have obviously been through Julian's bundle.

10 MR PEREIRA: Is this the one to do with Park Village?

11 MR WALD: Yes.

12 A. It starts: "Thank you for your reply and

13 information ..."?

14 MR WALD: No, "Further to my last e-mail I do not understand

15 why it is so hard for the LDA to confirm ..."

16 A. Sorry, yes.

17 Q. Okay, and do you see over the page, page 2 of that

18 e-mail, it says:

19 "Second, as far as I am aware, we are not being

20 included in any of these ongoing discussions. Under the

21 strategy timetable, as far as I understand it, the next

22 stage of our involvement should have started."

23 A. Yes.

24 Q. So by April there is a complaint that there is not the

25 involvement that you say was going on?

1 A. Yes, I see that.

2 Q. So do you accept that at least up until April there had  
3 been nothing going on in terms of consultation?

4 A. Yes, the LDA was meeting at that time with the  
5 co-operative as a body, because obviously that had not  
6 been resolved, and I think other residents probably felt  
7 excluded from that.

8 Q. What about after April? Can you point us to any  
9 indication, up until the September meetings, which is  
10 what you first referred to when I asked you this?

11 A. As I mentioned to you, I do not have the documents, but  
12 I think what I would point out here is that this clearly  
13 shows that Lucy Webster was involved with residents  
14 during this time period, as I said.

15 Q. But, Mr Gaskell, the e-mail came from Mr Cheyne to  
16 Lucy Webster.

17 A. And Lucy Webster was getting responses from other  
18 residents as well -- sorry, not responses, that is poor  
19 English -- was getting e-mailed by other residents as  
20 well and was responding to that. You asked me a few  
21 questions ago, whether or not Lucy Webster was still  
22 involved in this project during the time period I  
23 described, and I am saying that whilst I do not have my  
24 own e-mails, these clearly indicate that she was.

25 Q. Mr Gaskell, let us suppose, and we have no evidence of

1           it, that there were the occasional e-mail contacts  
2           between individuals and the LDA like this one, yes, up  
3           until the September meetings?

4   A.   Yes.

5   Q.   It is not quite as good as the LDA, as the body with the  
6           information and the resources, approaching the entirety  
7           of the community and establishing what the community  
8           needs might be? It is not as good as that, is it?

9   A.   No, it is not, but I would condition that two ways. At  
10          that time, we were still not clear, because Peabody had  
11          not taken ownership of the estate, what our engagement  
12          with residents would be. As I have described before, it  
13          has been difficult engaging with residents, so we were  
14          dealing with the co-operative and we were having a great  
15          deal of problems dealing with the co-operative.

16                The second point I would make is that you have to be  
17          clear in terms of what you are trying to achieve from  
18          consultation. Again, the LDA during that period was  
19          looking to work up options for residents, was talking to  
20          Peabody, was talking to the RSLs, was trying to get a  
21          clear structure in place with which they could discuss  
22          with residents. That work was ongoing. To go out when  
23          that work was not undergone would have risked raising  
24          further frustration with residents because we did not  
25          have anything concrete to tell them and I think that is

1           why it was an informal process during that period.

2   Q.   Mr Gaskell, the status of the co-operative, or the  
3           involvement of Peabody, are quite separate from the need  
4           to approach individuals at the Clays Lane Estate and  
5           establish what their needs are, are they not?

6   A.   Yes, they are, but -- yes, they are, but at the same  
7           time the Fluid Survey had approached individuals and got  
8           a high level engagement from individuals, and the appeal  
9           process was still ongoing.

10   Q.   You place a lot of reliance on Fluid, and you have seen  
11           that the residents themselves found that process quite  
12           promising.

13   A.   Not all residents. I am aware that the co-operative  
14           were not very keen on it, but I do place a lot of  
15           importance on it.

16   Q.   But even the promises of Fluid with were not lived up  
17           to. The time line was broken; yes?

18   A.   For the approval of the relocation strategy.

19   Q.   Yes, and indeed the consultation?

20   A.   Again, you and I do not agree on that.

21   Q.   Well, actually we do, at least to a degree, now, because  
22           you said up until April there had not been contact?

23   A.   No, I said it was ongoing. You pointed me to an e-mail  
24           in April, which I said was indicative of the fact that  
25           Lucy Webster, from the time that she met Julian before

1 the Fluid survey, to the point in April was still  
2 involved in the project.

3 Q. And then I asked you if you could identify any instances  
4 of contact before that date and you said no?

5 A. No, exactly, and I said that the best I could do, given  
6 the information around me, because I was not aware that  
7 we were going to be discussing this, was point you to  
8 that e-mail.

9 Q. You have said, in answer to an earlier question, that  
10 this is all an ongoing process, and even today you could  
11 get details of unhappy former tenants now relocated and  
12 try and solve that problem; yes?

13 A. Yes.

14 Q. Do you accept that where time lines are missed, such as  
15 the Fluid time lines, there is an effect on the  
16 community, because some residents move out of fear;  
17 because community ambitions are abandoned in the light  
18 of the passing of time, and the coming of that date when  
19 everyone will have to leave the estate?

20 A. Is that a theoretical question?

21 Q. No, it is a direct question, not theoretical.

22 A. Linked to Clays Lane itself?

23 Q. Do you accept that the effect of delay is an erosion of  
24 community ambition?

25 A. I do not accept that, no. I point to the fact that in



1 the Fluid Survey we had 93 residents looking at  
2 a community move. In the SNU survey carried out this  
3 year, we have had 120 residents interested in that kind  
4 of a move out of a smaller sample, so I think that shows  
5 a growth in community ambition.

6 Q. So you think the community remains strong?

7 A. Again, I am not clear what you mean by the community.  
8 There are various facets to that, and I think there are  
9 clearly those who align themselves to the  
10 ex-co-operative, and I believe that the numbers involved  
11 in that have remained consistent in all my discussions  
12 with Mr Sandison, who is leading those discussions for  
13 them. The group represented by Mr Cheyne has grown in  
14 the time that we have come to look at that, and another  
15 group has been identified through the SNU survey which  
16 previously had not expressed an interest in a group  
17 move, so I do not see that there has been any erosion in  
18 that ambition.

19 Q. So there is no disadvantage to residents in the Fluid  
20 time lines being treated as fluid as the LDA has treated  
21 them?

22 A. I said theoretically you could see how that might be the  
23 case. However, it is not borne out by what is happening  
24 at Clays Lane Estate.

25 Q. The Fluid Report includes descriptions of the Clays Lane

1 Estate, and in certain parts it is quite complimentary  
2 of it, draws on its special features, indeed possibly  
3 its unique features; yes?

4 A. Yes.

5 Q. None of that makes its way into your evidence?

6 A. Again, the LDA is conscious of that. However, people  
7 carrying out the Fluid Report are experts in community  
8 engagement and public consultation. They are not people  
9 who profess any ability in respect of architectural  
10 merits, sociology, or anything like that. So it is not  
11 something that I felt the need to bring before the  
12 Inquiry.

13 Q. Can we turn to 3.15 of your rebuttal, please.

14 A. My rebuttal ...

15 Q. To the collective case. Do you have that?

16 A. I have that, yes.

17 Q. Do you see, you say:

18 "As reported in the Fluid summary [the last sentence  
19 of that paragraph] only 12 of the 267 respondents stated  
20 in respect of their rehousing needs they had a specific  
21 preference to be near to comparable areas of open space  
22 ..."

23 A. Yes.

24 Q. "... 4.5 per cent of respondents."

25 You draw that from the answers to question 17 in the

1 Fluid report, do you not?

2 A. Where are we?

3 Q. Page 42, Fluid, question 17. Is that where you draw it

4 from?

5 A. Yes.

6 Q. Do you see the question is:

7 "Please provide any additional information that you

8 feel is important that relates to your housing needs"?

9 A. Yes.

10 Q. Can you turn back to question 13 of the Fluid Report.

11 A. Yes.

12 Q. Do you see there:

13 "What is it important for you to live close to?"

14 A. Yes.

15 Q. Were you aware of this question existing in the Fluid

16 Report? I think that is a yes or no answer.

17 A. Yes, and I overlooked it. I apologise.

18 Q. What do you apologise for?

19 A. Having overlooked it in my evidence.

20 Q. Okay, so you were aware of it but you did not include it

21 in your rebuttal, either at 3.15 or elsewhere?

22 A. I overlooked it, yes.

23 Q. It is misleading, is it not, what you put at 3.15?

24 A. Yes, that is right.

25 Q. In fact, there is a sufficiently higher degree or number

1 of residents wishing to be near parks and green spaces?

2 A. There is.

3 Q. And similarly to the point I made earlier, there are  
4 aspects of the Fluid Report that emphasise the special  
5 features of the Clays Lane Estate, the reasons to  
6 preserve it that do not make their way into your  
7 evidence?

8 A. Yes. I have considered those and I do not accept them.

9 Q. You have been selective, have you not, in the production  
10 of your evidence?

11 A. I have produced the entire report.

12 Q. You have appended the report but --

13 A. The entire report is in front of the Inquiry.

14 Q. Of course, that is not disputed. I am talking about the  
15 views that you express within your proofs of evidence.

16 A. Sorry, I am not clear on the question.

17 Q. Your proofs do not strike the balance that was struck in  
18 the Fluid Report?

19 A. No, and my opinion is not the same balance as was in the  
20 Fluid report. Now, specifically on open space, because  
21 I have overlooked a significant question, I accept that  
22 that is misleading. But I stand by what I have put in  
23 terms of the quality of the space and everything else.  
24 As I have already stated, I do not see that Fluid have  
25 any particular expertise in this area.

1 Q. Do you consider that the condition of the housing stock  
2 is a reason for its intended demolition?

3 A. No.

4 Q. The stock itself is fundamentally sound, albeit in need  
5 of refurbishment; that is fair, is it not?

6 A. In need of major refurbishment, yes, and that question  
7 was put to me by the Inspector in the first week and  
8 I think I gave that answer.

9 Q. One of your rebuttal proofs includes the survey reports  
10 on it.

11 A. That is right.

12 Q. You seem to have placed some emphasis on it?

13 A. Yes.

14 Q. If these are matters that could be resolved through  
15 refurbishment --

16 A. Major refurbishment.

17 Q. Well, you say major, we say -- let us not split hairs.

18 A. Well, the building surveyors say major. Those within  
19 the Fluid Survey say it is all right. I think you will  
20 have to take the views and give weight to them according  
21 to expertise.

22 Q. All right. But in any event, if it is not a reason for  
23 demolition, it should not play a prominent part in your  
24 proof of evidence, should it?

25 A. I think the reason it plays a prominent part in my proof

1 of evidence is because I go on to draw the point that if  
2 people are relocated to decent homes from homes that are  
3 clearly not up to the minimum standards for social  
4 housing that is important in considering whether or not  
5 the LDA's expectations that people will have a better  
6 standard of living will be met.

7 Q. Similarly, Mr Gaskell, your discussions of the co-op are  
8 irrelevant, are they not, to this Inquiry?

9 A. They are not irrelevant. Evidence has been brought by  
10 your clients that the co-operative in itself fostered  
11 a community, a single community that was strong. My  
12 point raised in this is that that is not the case; that  
13 there is no requirement for a fully neutral co-operative  
14 to go on, because the co-operative in itself was held to  
15 be, through a number of inquiries, part of the problem;  
16 that there was a systemic problem of mismanagement and  
17 bullying and harassment, and I think the point that I am  
18 trying to make is that the community, such as it is out  
19 there, and there is clearly a strong community for parts  
20 of the co-operative, and the people who have been here  
21 all have alluded to that and I accept that completely,  
22 but I think that community is created despite the  
23 co-operative and despite the co-operative principles.  
24 It is facilitated by the courtyards but it ultimately  
25 comes down to the types of people who have got together

1 and are making friends, and I think that is not unique  
2 to Clays Lane. The idea that people who are not  
3 co-located cannot keep those ties up is not accurate and  
4 that is why that evidence is in there.

5 Q. It is pretty difficult for them if they are displaced  
6 into the four corners of London, is it not?

7 A. Well, that has not been the case in evidence from  
8 Mr Sandison, for example, where someone has been  
9 relocated and keeps coming back. And I do not see  
10 why -- I have a network of friends across the four  
11 corners of London and I am able to keep in adequate  
12 contact with them.

13 Q. Mr Gaskell, let us not be disingenuous. It keeps coming  
14 back to Clays Lane Estate which will, with your vision,  
15 be gone within a short space of time?

16 A. That is right.

17 Q. That is a place to keep coming back to, that shows the  
18 strength of that community, but once demolished --

19 A. The Clays Lane Estate -- it is the community, it is the  
20 individuals who are creating that community. Those  
21 individuals have made friendships and ties and I did not  
22 deny that. However, that is not linked to place, that  
23 is not linked to a type of living model, and that is the  
24 evidence I have put in my proof.

25 Q. You have heard evidence about the linkage between the

1 design of the Clays Lane Estate and the community  
2 experience there.

3 A. And if that was actually the case, then I would expect  
4 a strong community across the boroughs, except that the  
5 Statutory Inquiry -- across the estate, across the  
6 different courtyards. That is not the case. Certain  
7 courtyards, where individuals get on, get on. Other  
8 courtyards have a very high percentage of transience,  
9 and that is alluded to in the Statutory Inquiry, which I  
10 have mentioned in my proof, where they had an extremely  
11 high level of relettings within the shared housing,  
12 because people simply did not want to be there. That is  
13 also is the case with the 53 per cent of people who do  
14 not want to relocate as part of this community, or the  
15 communities that are looking to move.

16 Q. 47 per cent expressed a desire to stick together.

17 A. That is not the case, is it?

18 Q. What do you mean, that is not the case?

19 A. That is simply not borne out by any -- there is no  
20 reference that says that: 47 per cent of people wish to  
21 relocate together. The highest figure that has been  
22 produced is 120 individuals in the most recent survey.

23 Q. Mr Gaskell, do you agree that in order to establish such  
24 demand as there was at the time of the Fluid Survey, it  
25 is necessary to extrapolate?



1 A. I do not necessarily agree with that, no.

2 Q. Let us turn to the section in the Fluid Report. Do you  
3 see, key issues, at page 31 of the Fluid Report --

4 A. Sorry, what page?

5 Q. 31 of the Fluid Report.

6 A. "Key issues", yes.

7 Q. Do you see the fourth bullet point that says "by  
8 extraction"? I think that is intended to mean the same  
9 as extrapolation.

10 A. I believe it is.

11 Q. So the Fluid Report seems comfortable with that  
12 prospect?

13 A. And I have already put evidence before the Inquiry that  
14 I am not comfortable with the logic used by the Fluid  
15 Report. The numbers that they are quoting, for example,  
16 you have 14.1 per cent who were unsure at the time of  
17 this survey, you have only 32.7 of residents who had  
18 stated a definite preference, so you have 67.3 per cent  
19 who are interested in being rehoused separately.

20 You have an extrapolation where Fluid actually apply  
21 those percentages to properties that are not even  
22 occupied, and have never been occupied, so you are  
23 taking a percentage of empty buildings with you as part  
24 of your co-operative move. So I think the logic is  
25 flawed. I think it is not borne out by my experience on

1 the ground, which I have already referred to, I have  
2 never come across anyone who has claimed that there are  
3 200 people ready to move.

4 We have entered into dialogues because we want to  
5 try and facilitate a community group move. Those  
6 discussions have indicated a figure of roughly 40 to 50  
7 going with the co-operative. We have a figure of ten  
8 now up to 20 for Mr Cheyne and we have another ten. It  
9 simply is not borne out by any experience on the ground.

10 Q. Mr Gaskell, has the Fluid Report used any statistical  
11 process that is unusual or unorthodox?

12 A. I think including unsure as part -- I see no  
13 justification for including unsure within those who wish  
14 to move within the co-op. Applying those percentages to  
15 empty units to give respondee numbers seems somewhat  
16 unorthodox to me.

17 Q. If you were dissatisfied with the methodology of the  
18 Fluid Report, is there any reason why you, the LDA, did  
19 not conduct your own proper assessment of the degree of  
20 collective ambition at the estate?

21 A. There was no need to do that at that time. We were  
22 clear from this that there were over 30 per cent of  
23 people who would be interested in collective rehousing.  
24 Therefore, we had to go out, find genuine opportunities  
25 for them to be involved in that collective rehousing and

1           then, as per the discussions that we have had, the time  
2           to do a further survey is when you start to get concrete  
3           options behind those things so that people are able to  
4           take a more informed view.

5   Q.   The SNU survey is quite separate from any work done by  
6        the LDA, is it not?

7   A.   Not at all.

8   Q.   What conclusions did you reach about the SNU survey?

9   A.   What conclusions did I reach about the SNU survey?

10  Q.   Yes.

11  A.   I have read the conclusions that SNU reached, which  
12       suggest that up to 120 people may be interested in  
13       a group move, and that of those, they felt that a number  
14       of people would not actually come in as part of the  
15       group move because they thought they were simply keeping  
16       their options open, and that is borne out by the  
17       questions that they have asked, which said that even if  
18       they were offered a group move they would still want to  
19       be offered individual properties.

20  Q.   That is 105 out of 205, is it not?

21  A.   105?

22  Q.   124, sorry.

23  A.   120 is the number I have seen in the SNU survey.

24  Q.   Out of 205?

25  A.   120 out of 205.

1 Q. In the November newsletter -- I will not call it a  
2 promise but it is stated that housing costs towards the  
3 East will be looked at?  
4 A. Yes.  
5 Q. Was that done?  
6 A. Yes, it was.  
7 Q. And where is the result of that?  
8 A. In the Tribal HCH survey.  
9 Q. Who did that work?  
10 A. That work was done by Tribal HCH.  
11 Q. Let us have a look at the November newsletter again,  
12 please. Document 35, page --  
13 A. 305?  
14 Q. You see, under "Housing costs":  
15 "It was explained by the LDA that it could not  
16 provide a rent subsidy for new homes but would  
17 investigate further what housing costs in East London  
18 currently are."  
19 A. "What housing costs are currently", I read.  
20 Q. Are we going to get into a semantic argument or do you  
21 accept --  
22 A. No, no, I was just checking that we have the same  
23 document.  
24 Q. We have. Are we going to get into a semantic argument  
25 or do you accept that there is an expressed intention

1           that the LDA will do some work on this?

2    A.   Yes, and we did.

3    Q.   I thought you said a separate body did?

4    A.   Commissioned by the LDA.  A survey funded for the LDA on

5           behalf of the LDA.

6    Q.   Did the Tribal survey include an assessment of

7           comparable rents, not just compensation?

8    A.   Yes, it did, and that is the figure that goes into my

9           initial rebuttals and my original proof.

10   Q.   Do you accept that offering a comparable rent to

11           residents is part of offering like-for-like or better?

12   A.   No, and the LDA has never suggested that it is.

13   Q.   So if they end up in a property that is twice as

14           expensive, you say that the Winterbottom promise is

15           still met, is still fulfilled?

16   A.   Mr Winterbottom's promise was to provide accommodation

17           that was at least as good as, if not better than what

18           they had.  That is a comment about accommodation

19           quality.  I do not accept that residents will

20           necessarily end up in properties that cost double what

21           they are paying at the moment.  They may choose to do

22           so, in which case they will have a significant

23           improvement in the quality of their accommodation.

24           There is the issue of value for money here.

25   Q.   Do you accept that Mr Ogundele said that there would be

1 winners and losers?

2 A. I understand that is the case.

3 Q. Was that reported back to you by Mr Cahill, who was  
4 present?

5 A. It was.

6 Q. Right. Do you think that is an appropriate way to deal  
7 with residents who are going to be possibly compulsorily  
8 displaced?

9 A. No, and I think the LDA has made that clear.

10 Q. And that is not the reason Mr Ogundele was removed from  
11 his post?

12 A. Mr Ogundele was not removed from his post. He was  
13 talked to by myself and Mr Cahill about that phrase.

14 Q. So your evidence on rents is that they need not  
15 necessarily be equivalently priced to the current  
16 accommodation at the Clays Lane Estate; is that right?

17 A. My evidence on rents is that we have -- sorry, start  
18 that question again, because I have not answered it.  
19 Are you are asking me: am I giving evidence that rents  
20 will not be the same as at Clays Lane?

21 Q. No, not what they will be, but what they ought to be?

22 A. Should rents be the same?

23 Q. Yes.

24 A. It depends on the property type.

25 Q. Why?

1 A. Because that is the way that social housing rents are  
2 calculated. Under the convergent rents, target rents  
3 policy, there is a set formula for calculating the rents  
4 of social properties. That depends on the local area,  
5 that depends on average income earnings and it depends  
6 on the size and the nature of the property. So  
7 therefore a property where everyone is paying a rate  
8 similar to Clays Lane, and there are some, would not  
9 necessarily be more expensive. I would expect, however,  
10 that for the vast majority of properties, where  
11 convergent rent policies have been being applied for  
12 some time, they will be more expensive. That is my  
13 evidence.

14 Q. Mr Gaskell, if you were displaced by a compulsory  
15 purchase order and re-accommodated, would you expect to  
16 be offered something of comparable rent?

17 A. I would expect to be offered the widest choice of  
18 options that I could be given. I would not be expected  
19 to be compelled to take something that was going to be  
20 significantly more expensive. At the same time, the LDA  
21 is not in a position to rewrite government policy on  
22 social rents. The convergent rent target rent policy  
23 was brought in specifically to provide a more equitable  
24 system within the social housing sector. That puts in  
25 place target rents for properties and for areas and

1 requires social landlords, co-operatives and others to  
2 increase rents where there are anomalies to ensure that  
3 rents are consistent across the sector. I would not  
4 expect, and I do not expect the LDA to try and rewrite  
5 government policy in that way.

6 Q. Was the issue of equivalence of rents raised explicitly  
7 in CLOM/LDA meetings?

8 A. Yes.

9 Q. So that is not a new matter, is it?

10 A. No, and we have been looking at it for some time. We  
11 have always been clear with residents what our  
12 expectations are.

13 Q. Are you aware of the -- we call it a promise, you may  
14 call it something else, but the statement that was given  
15 about the posting on the site of information?

16 A. Sorry, the posting -- the promise that was given on  
17 posting of information?

18 Q. Mr Winterbottom's original letter, his letter of 2004,  
19 includes a statement about the provision of information.

20 A. 34. Yes, I am aware of that.

21 Q. Onsite displays.

22 A. "Regular updates via a standing display on site."

23 Q. Yes. Have they happened?

24 A. There is information displayed onsite, yes. There is  
25 not, I think, what Mr Cheyne understood from that, which



1 is boards or anything like that, but the LDA is  
2 providing reports such as Tribal, summaries from Fluid,  
3 housing option information are all available within the  
4 onsite office, and I think I pointed that out to the  
5 Inspector when we were on the site.

6 Q. I am told that in June this year one notice went up  
7 about group moves, but before that was there any --

8 A. That is entirely separate to what I am talking about.

9 Q. You are talking about notices within the office?

10 A. I am talking about information being provided onsite,  
11 a display of information.

12 Q. Is that what you mean by a standing display on site?

13 A. I think it meets that fairly closely. I understand from  
14 previous conversations with Mr Cheyne that is not what  
15 he understands was meant by that.

16 Q. Mr Gaskell, you may think I am splitting hairs here, you  
17 may think that.

18 A. I do.

19 Q. I am got going to ask you whether you do; you have made  
20 your comment that in fact you do think that. But we  
21 have looked earlier at whether it is surprising that the  
22 residents would place a lot of importance on the words  
23 that are used in this letter when it is their homes at  
24 stake, and I think you have conceded that it is not  
25 surprising that a resident in receipt of a letter like

1           this would read it carefully and place reliance on its  
2           promises?

3    A.   But I think I also pointed out that from the point where  
4           I took on responsibility, there was only one resident  
5           who was raising this letter with me, so I do not accept  
6           that there is widespread reliance on this document at  
7           Clays Lane Estate. That is simply not the case. That  
8           said, I take your point.

9    Q.   But Mr Gaskell, it is clear, you have made mention of it  
10           a number of times during this cross-examination, that  
11           a lot of your contact has been with Mr Julian Cheyne.

12   A.   I have had a lot of contact with residents down there.  
13           I have had a lot of contact with Mr Cheyne.

14   Q.   Is it your evidence that he is the only resident who is  
15           unhappy with the performance of the LDA?

16   A.   No.

17   Q.   All right, thank you. There were discussions at an  
18           earlier stage about where residents have moved to, yes,  
19           whether it is in Newham -- Mr Hammoud's evidence does  
20           not include statistics that relate to Newham?

21   A.   Yes.

22   Q.   Do you know, or have you put into the Inquiry, of the  
23           destinations of already located tenants?

24   A.   I have not put it to the Inquiry. I am aware --

25   Q.   You are aware of it?

1 A. Yes.

2 Q. What percentage roughly have gone to Newham?

3 A. I could not say.

4 Q. Is that because you do not wish to or because you do not  
5 know it?

6 A. That is because I do not know it to give any sort of  
7 reliable information to the Inquiry. I am not concerned  
8 to give that information to the Inquiry at all, because  
9 I would expect the numbers going to Newham to be  
10 significantly less than will ultimately end up going to  
11 Newham.

12 As I mentioned yesterday, the LDA has only completed  
13 its agreement with Newham to get priority status for  
14 decants on Monday, therefore the number of people who  
15 are able to relocate successfully within Newham will go  
16 up proportionate to that. So whilst people are  
17 priorities they will have top access to the Choice Homes  
18 properties being advertised and they are primarily,  
19 though not wholly, within Newham.

20 Q. Has the organisation of the decant status been -- has it  
21 been promised, has it been stated that it would happen  
22 from back to March of this year?

23 A. Yes, it has, and before that we were intending to try  
24 and put this in place as part of the work to develop the  
25 relocation strategy. As I say, it was an issue then and

1           it has remained an issue with London Borough of Newham  
2           until this Monday when we finally signed the legal  
3           agreement.

4   Q.   It is another example of delay, is it not?

5   A.   Unfortunately. It is unavoidable.

6   Q.   All right. What about Mr Cheyne? He asked for extra  
7           legal assistance to help with the relocation of the  
8           group that he belonged to, did he not?

9   A.   Mr Cheyne asked for legal assistance for a range of  
10          things. It was only after some dialogue that he  
11          clarified that, that he wanted assistance for the  
12          relocation of the group that he was relocating with, and  
13          it was at that point that I agreed.

14   Q.   It took you five months to agree that, did it not?

15   A.   I was awaiting information from Mr Cheyne for a long  
16          period within that.

17   Q.   Has it actually been agreed now?

18   A.   I thought it had. I had an e-mail from Mr Cheyne's  
19          solicitor raising extra conditions on that, I think at  
20          the end of last week. As far as I am aware, we have  
21          agreed in general terms, sufficient to provide  
22          Finers Stephens Innocent with the confidence to proceed.  
23          That was on the basis of a general agreement that the  
24          LDA has reached with that company for advice. Having  
25          done that, I had another e-mail from Alex Morton, who is

1 the solicitor dealing with this, seeking to change those  
2 general terms last week. But as far as I am concerned,  
3 they are working on that, and we will be meeting their  
4 costs prior to the date that we finally end up signing  
5 an agreement, providing that we go back to the terms  
6 that were agreed between the parties.

7 Q. I asked you about the effect of delay earlier,  
8 Mr Gaskell, and you said that you thought that the  
9 elements of the Clays Lane Estate that comprise  
10 a community remained resilient notwithstanding delays,  
11 if I can summarise your answer in that way?

12 A. Yes.

13 Q. Are there any other effects of delay in terms of the  
14 experience of residents who are to be moved on from  
15 their homes?

16 A. I am not 100 per cent clear what delay you are referring  
17 to. I think I would make the point that clearly we said  
18 that the rehousing process would start in January of  
19 this year. The rehousing process started in January of  
20 this year and 106 residents have relocated under that  
21 rehousing process.

22 Q. Do you include in your number those that have done their  
23 own job of relocation?

24 A. Entirely. Those people who are rehousing have taken up  
25 our offer of disturbance payments and home loss

1           payments. They do not have to relocate to one of our  
2           properties. People have a choice. It is a choice based  
3           system, there are a variety of routes that people have  
4           wanted to go down and we are allowing them to do that.  
5           We are acting as facilitator in that process.

6   Q. I am just being pointed to the document in which  
7           Mr Cheyne first sought funding along the lines we have  
8           just discussed. Do you want to take up that document?  
9           It is page 170 of the Irwin Mitchell bundle. It is  
10          document -- possibly 51. Do you see that letter of  
11          15th February?

12   THE CHAIRMAN: The very last one.

13   A. I have it.

14   MR PEREIRA: Sir, do you have a page for that?

15   THE CHAIRMAN: Sorry, 170.

16   MR WALD: Okay, do you have that?

17   A. I have.

18   Q. It is addressed to you and Mr Cahill.

19   A. That is right.

20   Q. Did you reply to this e-mail?

21   A. By e-mail?

22   Q. At all?

23   A. Yes, I believe I did.

24   Q. Well, let us look at that in a moment. It is a request  
25          for funding and it is fair to say that the group had not

1           formed at this point and the e-mail says as much. It  
2           says at line 4 of the second paragraph.

3           "I continue to be faced with contradictory remarks  
4           as to what I can expect to receive whether I am involved  
5           in a group or an individual move"; yes?

6   A.   It says that, yes.

7   Q.   So it is not clear there whether it is a group move or  
8           an individual move that is anticipated.

9   A.   Mm hmm.

10   Q.   Because the group had not formed at that point, in fact?

11   A.   A group had formed in what way?

12   Q.   The Nice Little Co-operative had not formed at this  
13           stage?

14   A.   No.

15   Q.   But the matters of funding to which you are being asked  
16           to apply your mind could have been dealt with even in  
17           the absence of the formation of that group?

18   A.   I do not agree with that, and that was my response to  
19           Mr Cheyne. We have put in place a service that can  
20           provide legal advice to residents to assist them with  
21           the move. Where a resident is moving within the social  
22           housing sector, it is a heavily regulated sector to  
23           protect the interests of that resident, and therefore --  
24           and that service is provided by the ITLA. That is why  
25           we have recruited them, that is part of their scope of

1 works. So therefore, until you have an actual  
2 requirement for advice that goes beyond and above what  
3 might be required normally by a resident relocating,  
4 there is no requirement to agree a brief. You know,  
5 trying to agree a brief for works for a solicitor in the  
6 absence of any information about what type of move is  
7 being required, I think would be nigh on impossible.

8 Q. Okay. You have another e-mail chasing a response  
9 on February 20th. That is page 168, if you turn  
10 a couple of pages back.

11 A. Yes.

12 Q. You had not responded at that point, right?

13 A. No, sorry.

14 Q. Are you saying sorry to Mr Cheyne or to me? Who are you  
15 apologising to?

16 A. I have already discussed it at length to Mr Cheyne.

17 Q. Right, okay. On 23rd February, it appears that  
18 Mr Cheyne gave up on getting a response from you and  
19 forwarded the application for funding to Mr Blacker.

20 A. I do not --

21 Q. Just have a look at the document.

22 A. I am having a look at that. I think he is raising  
23 a number of other issues, is he not?

24 THE CHAIRMAN: Is there a page for that?

25 MR WALD: Yes, it is 163 and 164.



1 A. Yes.

2 Q. You see it says:

3 "I have copied an e-mail to you which I sent to  
4 Andrew Gaskell and Aaron Cahill on 20th February. This  
5 followed an earlier e-mail. I have received no response  
6 or acknowledgment to my second e-mail. I have also  
7 asked Andrew and Aaron to tell me what their response  
8 time should be. They have not supplied this  
9 information."

10 A. Okay.

11 Q. Did you ever actually do that?

12 A. What is that?

13 Q. This chasing e-mail; did you ever reply with --

14 A. I did. I think ten days is the figure.

15 Q. Where do we see what the response time should be?

16 A. Again, I am not sure whether or not all of my e-mails  
17 are in here. We come back to the partial evidence  
18 again.

19 Q. I mean, you have seen, perhaps you place a different  
20 interpretation on it than the residents do, but you saw  
21 in Mr Winterbottom's letter the commitment to providing  
22 as much information as possible throughout the process?

23 A. Yes.

24 Q. In that correspondence, are you living up to that  
25 commitment?

1 A. No.

2 Q. All right, thank you. Did you live up to it generally?

3 A. I would hope so, yes.

4 Q. With the exception of that one chain of correspondence  
5 I have referred you to, you think you have lived up to  
6 it?

7 A. Yes, I think I have. I have done a lot of work on  
8 a personal level with a lot of residents out there. We  
9 have discussed issues raised by the residents, we have  
10 responded to issues raised by the residents, and I think  
11 there are a range of examples where we have done that,  
12 and we have provided information to feed back to  
13 residents once we have done that.

14 The issue of Fluid confidentiality I feel is one of  
15 those, Peabody's rental policy another one of those.  
16 The issue of East London rents, I think is one of those.  
17 The SNU report, and the response to that, another one of  
18 those. The consultation on the rehousing strategy  
19 again; questions about the different options available  
20 to residents; concerns that the big group sessions were  
21 not effectively addressing residents' concerns and the  
22 move to one-to-one sessions. I think all of these are  
23 indicative of the way that we have tried to communicate  
24 with residents and to provide them with the information  
25 that they actually require.

1 Q. Access to design; you accept that through the  
2 consultation process that should be ongoing, there  
3 should be an element of residents having some access to  
4 influencing design?

5 A. Where residents are -- it is certainly an option  
6 available to residents, if they choose to do so, within  
7 a purpose-built development to look at access to design.  
8 That is something we have always said we would be keen  
9 to discuss with residents.

10 Q. I think we can deal with this quickly but there was  
11 a discussion as to what was meant by specified design?

12 A. Yes.

13 Q. Do you agree with me that that does not intend to  
14 dictate design but just give the specifics of the design  
15 that one would wish to see?

16 A. I think that discussion was in a particular context.  
17 Asked outright, I think that what we anticipate is  
18 residents having an input into design. I think that  
19 from my memory of that actual exchange, what I was  
20 talking about was putting in place, if residents wished  
21 to do so, a specification for a procurement of  
22 a development site and development. I do not see that  
23 the LDA -- the LDA have talked about access to design,  
24 we have talked about input to design. I do not see that  
25 as specifying design.

1 Q. I just want to get a bit of clarification in relation to  
2 the relocation strategy now, Mr Gaskell. You have said  
3 that there is no approved relocation strategy; yes?  
4 A. That is right, yes.  
5 Q. But there is a relocation strategy in process?  
6 A. Yes. There is a strategy being undertaken by the LDA  
7 for the relocation of residents by agreement.  
8 Q. By agreement with whom?  
9 A. By agreement with the residents on an individual basis.  
10 People are agreeing to relocate. They are choosing  
11 properties that they want to go to.  
12 Q. You mean an individualised strategy? I am talking about  
13 an overall strategy.  
14 A. But individual options are coming forward through an  
15 overall strategy. A strategy is an overarching -- it is  
16 not the individual tactics, it is not the individual  
17 agreements. It is the body of options that we are  
18 bringing forward. It is the ability to go to nominated  
19 properties, the ability to go to properties not covered  
20 by nominations but by partners who are offering  
21 properties, it is the ability to discuss with us the  
22 potential for a group move, be that as purpose-built  
23 accommodation, be that as part of a larger group or one  
24 or two smaller groups who do not want to relocate with  
25 them. That is the body of work that is the strategy

1           that the LDA is pursuing.

2   Q.   I appreciate, Mr Gaskell, we are talking about a large  
3       number of people, some of which will have -- well, they  
4       may all have different or slightly different ambitions;  
5       yes?

6   A.   Yes.

7   Q.   And so some will result in individual moves, and you  
8       have said that that is by agreement.  What I am looking  
9       for is, in your unofficial relocation strategy, evidence  
10      of agreement with groups.

11  A.   Other than the work that we are doing to try and get  
12      a serious coherent group together to actually find  
13      properties?  I am sorry, I do not understand what the  
14      distinction is.

15           We have agreed that we are prepared to work towards  
16      group moves.  We have identified sites where group moves  
17      may be possible.  We are in discussions with two of the  
18      groups already, and will be entering into discussions  
19      with a third group shortly, to understand what they want  
20      from properties.  We will look to deliver that.

21  Q.   And that is unachievable by 2007, is it not?

22  A.   Not necessarily.  We have already given an example,  
23      Nag's Head, where we could do a group move and have  
24      people in by March 2007.  Similarly, other refurbishment  
25      properties can be available before June 2007.  If

1 residents choose to have purpose-built housing, in  
2 addition to that -- and at the moment there is only one  
3 group that has specified that outright, NLC have it as  
4 one of the options that they wish to pursue -- then it  
5 may well, depending on the input that they want to  
6 design, depending on the planning process, be  
7 unachievable before June 2007.

8 Q. Did the initial discussions about group moves focus in  
9 on purpose-built accommodation?

10 A. Not necessarily, no.

11 Q. Mr Gaskell, the answer to that question relies on  
12 discussions held before your time. It is  
13 before November; October, I think you said. It is back  
14 in 2004. Do you know where the emphasis was placed at  
15 that time?

16 A. Do you know which discussions we are talking about?  
17 Sorry, can you provide me -- I need clarification on  
18 that.

19 Q. At the time of Mr Winterbottom's letter, 2004. When did  
20 the LDA first visit the estate to establish what the  
21 ambitions of residents might be?

22 A. We were down there as part of the planning process  
23 in November 2003.

24 Q. Right.

25 A. We were meeting with the chair of the co-operative on

1 a regular basis at that time.

2 Q. And are you aware where the emphasis was placed during  
3 those discussions?

4 A. The emphasis placed during those discussions was on the  
5 ability or otherwise for tenants to do a double decant,  
6 to move out of the estate and come back to part of the  
7 Stratford City as part of a purpose-built co-operative.  
8 That was the ambition of the co-operative and that is  
9 the affidavit that was submitted to the planning  
10 committee.

11 Q. Do you know the Poplar document, that we looked at  
12 yesterday, that talks about either the retention of the  
13 Clays Lane Estate or it being moved into Stratford City?

14 A. Do you have that reference? I do not think I have  
15 a copy of that.

16 THE CHAIRMAN: It is not one that is numbered, I think. It  
17 was added in during this appearance.

18 MR WALD: I was hoping you would be able to recall it, but  
19 we will try and get a copy.

20 A. Thank you.

21 THE CHAIRMAN: This is the public consultation event 13, is  
22 it?

23 MR WALD: Yes.

24 THE CHAIRMAN: If it helps, the witness can borrow my copy.  
25 (Handed).

1 A. Thank you.

2 MR WALD: I am trying to locate my own copy now. Do you see  
3 that it speaks about either retention or incorporation  
4 into the Stratford --

5 THE CHAIRMAN: Page 2, I think that is.

6 A. It does not specifically mention retention. I think it  
7 talks about preliminary plans to move into Stratford  
8 City or accommodate it in the Olympic Village.

9 THE CHAIRMAN: Can you read that, please?

10 A. Yes, shall I read it verbatim?

11 THE CHAIRMAN: Yes, please.

12 A. "Jason Prior of EDAW explained that the residential  
13 impact would be relatively small. He explained that the  
14 Clays Lane Estate in Stratford had been placed in danger  
15 by their preliminary plans to move it into Stratford  
16 City or accommodate it in the Olympic Village."

17 MR WALD: And that envisaged some form of purpose-built  
18 accommodation for the residents of Clays Lane Estate?

19 A. As I say, at that time, what Clays Lane Estate were  
20 looking at, through the co-operative, was a double  
21 decant. That is as per the evidence they gave to the  
22 planning committee.

23 THE CHAIRMAN: So in effect to move out, demolish, new  
24 accommodation to be built?

25 A. Yes, they were looking for a purpose-built co-operative



1 to be built within the plans for the Olympic Village and  
2 Stratford City and for them to move out and then to move  
3 back into that post the Games.

4 MR WALD: I am instructed, Mr Gaskell, that there were two  
5 possibilities mooted. One was a right of return to the  
6 Clays Lane Estate as is, if it was retained. The other  
7 one was, without a double decant, a direct move into  
8 purpose-built accommodation at Stratford City.

9 A. That is not what the documents show.

10 Q. I asked you about inactivity. I am looking at the  
11 period between September 4th and the end of 2005.  
12 The September meetings that you referred to are in 2005;  
13 yes?

14 A. That is right.

15 Q. Now, I asked Mr Prior to refer us to documents  
16 yesterday, and he said that a lot of it was done either  
17 orally or without documentation. Are you able to --  
18 I want to give you the fullest chance possible -- point  
19 to any documents that show that the LDA was busy in its  
20 process of consultation establishing what the needs of  
21 groups and individuals at the Clays Lane Estate were  
22 within that period?

23 A. Other than the September consultation -- are you asking  
24 me after the September consultation events that I have  
25 mentioned before?

1 Q. Between September 2004 and the end of 2005.

2 A. Between September 2004 and the end of 2005, apart from  
3 the Fluid Survey, we had -- sorry, we had the Fluid  
4 Survey, which was a full assessment, which residents  
5 were generally happy with. We had the workshops  
6 in September 2005. We had the ongoing dialogue with our  
7 officers and residents at the estate. We had the  
8 meetings with the Clays Lane Housing Co-operative, who  
9 purported to represent those residents. We had the  
10 meetings that I held with the committee to discuss group  
11 moves at the end of 2005. We had the meeting with  
12 Mr Cheyne, Mr Sandison and John Biggs during 2005. We  
13 had the November newsletter and the responses to that --

14 Q. Did the residents themselves organise that meeting with  
15 Mr Biggs?

16 A. No, Mr Biggs organised that. He was meeting us.

17 Q. He did not come by invitation from the residents?

18 A. No, he was meeting with us, he was meeting with the  
19 residents separately, and he suggested to me that it  
20 would be a good idea if we all met at the same time.  
21 I was already seeking to meet with Mr Biggs; Mr Cheyne  
22 and Mr Sandison were seeking to meet with Mr Biggs.  
23 I think the credit for that meeting goes to Mr Biggs.

24 Q. In your chronology there, you move from the Fluid Report  
25 to the September 2005 meetings?

1 A. And then I went back and forth. Yes, I appreciate that.

2 THE CHAIRMAN: Can I just take a time reassurance?

3 MR WALD: Sir, I am just looking at questions I have already  
4 asked. It may assist timewise if I had about five  
5 minutes.

6 THE CHAIRMAN: I was going to say, it may be sensible to  
7 take a short adjournment and then come back for the  
8 final few questions. We will take ten minutes. The  
9 Inquiry is adjourned for ten minutes and the usual  
10 reminder, Mr Gaskell, not to speak to anybody, please.

11 (2.00 pm)

12 (A short break)

13 (2.10 pm)

14 THE CHAIRMAN: The Inquiry is resumed. Mr Wald, has the  
15 short adjournment assisted?

16 MR WALD: It has. I think I have a very limited number of  
17 additional questions, sir.

18 Mr Gaskell, you have before you Mr Cheyne's  
19 document. I would like you to turn, please, first to  
20 document 50, which is the unagreed relocation strategy.

21 THE CHAIRMAN: Could you remind me of the page number,  
22 please?

23 MR WALD: I think it is 19. Do you have that?

24 A. Yes.

25 Q. Do you see 1.1.8 identifies the details the LDA intends

1 to submit at a later date?

2 A. Yes.

3 Q. Those time limits have not been met yet, have they?

4 A. The strategy has not been agreed, as you point out.

5 Q. You see, it is a bit of a problem for the residents  
6 themselves that without an agreed strategy, with an  
7 informal strategy being pursued, they do not have the  
8 safeguards of these time limits being met; do you see  
9 that from their point of view?

10 A. Yes, I do.

11 Q. So in a way they are caught between two stools, are they  
12 not? There is either an approved strategy, where they  
13 have firm involvement, or there is an unofficial  
14 strategy that is being pursued, which is a unilateral  
15 act, however benevolent it is intended, on the part of  
16 the LDA?

17 A. No, it still has full resident involvement, Clays Lane  
18 On The Move and others. I think additional information  
19 on the appointments of the ITLA, that has been before  
20 residents. It has not been before the planning  
21 authority but it has been before residents. They have  
22 agreed the remit of the ITLA, they have appointed the  
23 ITLA. That was another process where we communicated  
24 with residents, heard what they were saying, recognised  
25 the legitimacy of their concerns and responded to that,

1 to ensure that it was a tenant-led appointment.

2 Q. Mr Gaskell, if that is the case, why not meet the  
3 requirements of section 118 even though it is an  
4 unapproved --

5 A. Because how would JPAT determine it? When we --

6 Q. No, no, I do not mean that, Mr Gaskell, not for the  
7 benefit of JPAT, not for getting your sign-off, but in  
8 order to ensure that the residents are fully engaged as  
9 you say they had been?

10 A. The point I am making is that that is exactly what I am  
11 doing.

12 Q. I mean, they are not there just for the fun of it, are  
13 they? These time limits are there to ensure in  
14 a concrete form that residents have an involvement in  
15 that process?

16 A. But let us be clear: I have just said that we are  
17 providing information to residents well  
18 before March 2006. The mechanism for appointing the  
19 ITLA, the identity of the ITLA, and the remit of the  
20 ITLA was well known to the residents' committee and  
21 through them to other residents.

22 The specific details of information being provided:  
23 we have already shown them the Choice Homes information,  
24 residents have exhibited the flyers that are provided,  
25 the letters that go out to the residents and the format

1           that they are in are well known, not only to the  
2           residents but to this Inquiry. That information is  
3           being provided to the residents. We have now an  
4           effective mechanism for engagement with the residents,  
5           the Clays Lane On the Move committee, and that body is  
6           being provided with the information, not only that JPAT  
7           and the planning authorities might request but the  
8           information that the residents might request.  
9           Information about Peabody target rents and the response  
10          to that, information about compensation generally and  
11          the setting up of the compensation working party.

12                 There is a great deal more information and  
13          engagement with the residents than is contained within  
14          that box and that process is ongoing and ongoing without  
15          delay.

16    Q.   Mr Gaskell, please turn to document 43, the page number  
17          of which I am not sure. Tab 6, I think, sir. It is  
18          a letter of 29th March 2006, an e-mail to you from  
19          Mr Cheyne.

20    THE CHAIRMAN: Page 147.

21    A.   I have that.

22    MR WALD: This is about the Rehousing Alliance. What was  
23          the purpose of the Rehousing Alliance?

24    A.   The Rehousing Alliance -- I think this was raised with  
25          me in correspondence by Irwin Mitchell as well, so that

1 response is one that I will give again. The Rehousing  
2 Alliance was a broad body containing the key partners  
3 within rehousing within East London, a range of  
4 boroughs -- the exact details I do not have but you have  
5 in correspondence -- a range of RSLs, who were intended,  
6 as I talked about before, to look at what we were trying  
7 to do in respect of the relocation strategy, to provide  
8 us with help and assistance in putting those mechanisms  
9 in place.

10 Q. All right. And the Fluid time line sets out a time  
11 limit by when that should be done; yes?

12 A. Sorry, where is that?

13 Q. It is in the Clays Lane Co-op relocation programme, at  
14 the bottom of the time line page.

15 A. Discussion through registered social landlords and  
16 housing solutions?

17 Q. Yes.

18 A. Yes.

19 Q. The answers to questions included two minutes of  
20 meetings, one of which dates from -- I think, was  
21 it July of 2005?

22 A. Yes.

23 Q. So that is a fair bit later than this arrow indicates it  
24 should be happening.

25 A. The Rehousing Alliance is not the only mechanism,

1 clearly, by which the agencies engage with registered  
2 social landlords.

3 Q. I did not say it was, but we were looking here --

4 A. Sorry, the answer then is no. That is considerably  
5 later.

6 Q. Thank you. Then you have an e-mail from Mr Cheyne, it  
7 is document 43, the one that starts:

8 "There seems to be some confusion about the present  
9 situation regarding the residential relocation  
10 strategy."

11 A. Yes.

12 Q. "I rang JPAT. They tell me they do have problems with  
13 the strategy and it is being reworked."

14 A. Yes.

15 Q. And that presumably is the source of our understanding  
16 that there were some monitoring problems within it.

17 A. Presumably.

18 Q. Thank you.

19 A. That is certainly not the comments that I have from  
20 JPAT.

21 Q. "We do not receive information on these points. I heard  
22 of the relocation strategy from a circular e-mail sent  
23 to the network which itself asked for information. We  
24 have no ongoing reports and the Alliance is a complete  
25 mystery to us. We do not know which associations are at



1 present operating, when meetings are being held, what  
2 decisions are being made, what incentives are being  
3 offered to the associations, and what criteria are  
4 operating."

5 You see, it is all placed in the first person  
6 plural. It is not just Mr Cheyne; "we"?

7 A. Yes.

8 Q. Where is your response to that e-mail? You did not  
9 supply one, did you?

10 A. You are asking me whether I e-mailed Mr Cheyne?

11 Q. No --

12 A. You are asking me whether I spoke -- let us be clear:  
13 none of these issues that are raised in these e-mails  
14 are the first time these issues are raised with me,  
15 neither are they the last time these issues are raised  
16 with me. Mr Cheyne and I have had numerous discussions  
17 on all of the issues raised. All of the issues raised  
18 in Mr Cheyne's response, for example, to the relocation  
19 strategy during the consultation, I was aware of before  
20 we submitted that relocation strategy.

21 So this is not a formal process. Correspondence  
22 with the residents is not something that the LDA does at  
23 an arm's length. It is an ongoing process, it is  
24 a process that happens on site, by phone, by e-mail, as  
25 much as anything else. So I cannot point you to an

1 e-mail that is the response to this, I cannot recall all  
2 of the e-mails I have sent to Mr Cheyne. That is  
3 certainly the case. So I am not able to answer that  
4 question.

5 Q. All right. 18th April 2006, document 53 in your bundle  
6 there.

7 THE CHAIRMAN: Is that in the same tab?

8 MR WALD: I presume it will be.

9 THE CHAIRMAN: Yes, it is. Page 179.

10 MR WALD: 18th April then, almost a month later, do you see  
11 paragraph 7 of the e-mail:

12 "I have also asked you about the present state of  
13 the Alliance without receiving any answer after you told  
14 the SNU meeting Newham had signed up to give tenants  
15 priority."

16 So at that point Mr Cheyne said he had not had an  
17 answer by April?

18 A. I know, but in my experience that does not necessarily  
19 mean he has not had an answer. It means he has not had  
20 an answer that he agrees with.

21 Q. Hang on a minute. I am instructed he has not had an  
22 answer. If he has had an answer within that time  
23 period, can you point us to where it is?

24 A. I think I have already dealt with that in my answer to  
25 your last question. No, I cannot point to where it is,

1 but neither would I -- obviously your instructions  
2 differ from my recollection.

3 Q. It is usual, when one is in a large organisation like  
4 the LDA, one has a request for information, it may be  
5 you knew there was going to be an Inquiry into the CPO  
6 process, it is usual to document responses, is it not?

7 A. As I said, that is not the process. We have been trying  
8 to work with residents and to work in the most effective  
9 way for residents. We have not been trying to respond  
10 formally every time that we have a question. We have  
11 done when that is within the auspices of a FOI or  
12 whatever. But the key point is that I have been trying  
13 to respond to residents as queries come up. We are  
14 meeting with them regularly, we are discussing exactly  
15 the same issues in those meetings as are being raised  
16 here.

17 Q. Mr Gaskell, even if it was not for the promises in  
18 Mr Winterbottom's letter, the residents, including  
19 Mr Cheyne, deserve better than this, do they not? Two  
20 unanswered e-mails.

21 A. Sorry?

22 Q. Two unanswered e-mails asking for clarification about  
23 their future?

24 A. Not asking for clarification. They were clear on what  
25 the future rehousing routes were going to be; asking for

1 specific information about a partnership that does not  
2 actually affect what options are available to them.  
3 I have made clear the role of the Rehousing Alliance. I  
4 do not believe that it is relevant to the residents'  
5 futures. I do not believe that the residents, for the  
6 vast part, want to know about these things and I do not  
7 believe they are in any way prejudiced by not receiving  
8 that information.

9 MR WALD: Mr Gaskell, thank you.

10 THE CHAIRMAN: Thank you, Mr Wald.

11 Mr Pereira, any matters of re-examination?

12 MR PEREIRA: Yes, just a few, please.

13 Re-examination by MR PEREIRA

14 MR PEREIRA: Mr Gaskell, you were asked some questions about  
15 the now well known Winterbottom letter --

16 A. Yes.

17 Q. -- of over two years ago. You said that when you were  
18 speaking to residents, you said two things that I want  
19 to draw to your attention. One was that residents were  
20 starting to place importance on it. The other thing was  
21 that initially one resident was still placing importance  
22 on it, but you did not name the resident. Who was the  
23 resident?

24 A. The resident was Mr Cheyne.

25 Q. And what I want to ask you is this, I think we need to

1 get a context. We have heard a lot about this from  
2 Mr Cheyne in particular, and to an extent from other  
3 witnesses, but can you put it in context of the  
4 residents on Clays Lane generally, so far as you  
5 understand the position, and the importance placed on  
6 this particular letter?

7 A. I -- putting it in context, I think, you know, I have  
8 been dealing with residents looking to move individually  
9 who are considering the options before them. I am not  
10 aware that any of them are expecting their property to  
11 correspond to a principle of equivalence. They are  
12 happy that they are better properties than they are  
13 getting anyway, but they do not refer to that letter.

14 I am dealing with a number of group moves. Those  
15 within Clays Lane Housing Co-operative are not expecting  
16 anything based on promises within the Winterbottom  
17 letter. They are expecting something based on the  
18 process that we are working through with them.

19 I am dealing with the NLC which is the group which  
20 Mr Cheyne leads, and within the brief for that we have  
21 reference to the Winterbottom letter.

22 Q. Whatever is written in letters and said in statements  
23 and so on, has the LDA's actual approach changed from  
24 the time of the Winterbottom letter to now, in what it  
25 is seeking to do?

1 A. No, it has not. We are still pursuing options that we  
2 believe will lead to an improvement in standards of  
3 accommodation. We are pursuing the widest range of  
4 options possible to give tenants a full choice in terms  
5 of where they want to relocate to. So there has been no  
6 change in what we are trying to bring forward as  
7 a result of the clarification provided.

8 Q. Right. You were asked some questions about residents  
9 who may have relocated and been unhappy, and your  
10 attention was drawn to paragraph 57.5 of Mr Cheyne's  
11 proof of evidence, yes?

12 A. Yes, it was.

13 Q. Have you heard anything directly from residents who have  
14 been relocated to the effect that they are unhappy with  
15 the premises that they are in?

16 A. No, I have not.

17 Q. Who is it, or from whom have you heard that residents  
18 are unhappy?

19 A. From Mr Cheyne.

20 Q. Have you heard that from anyone else?

21 A. No. No, I have not.

22 Q. And if we look at, please, what is set out at  
23 paragraph 57.5, it starts with mentioning vulnerable  
24 tenants, but in 57.4 there is one vulnerable tenant  
25 mentioned. I am not going to ask you about that.

1           The second sentence talks about tenants who have  
2           rejected offers on flats that are too small. It then  
3           goes on to talk about problems after they have moved in.  
4           What is mentioned in the next sentence is "damp, no  
5           water or electricity". How are issues like damp dealt  
6           with if you are a tenant in premises?  
7    A. They would be dealt with through a programme of rolling  
8           maintenance, but all of those issues would be addressed.  
9    Q. And if dampness was a serious issue in a particular  
10           premises --  
11   A. Residents would not be required to live there.  
12   Q. And "no water or electricity". I am bound to ask, how  
13           likely do you think that is?  
14   A. I do not consider it at all likely.  
15   Q. If a tenant goes to premises where water and electricity  
16           do not appear to have been connected, what can be done  
17           about it?  
18   A. Then I would expect the water and electricity to be  
19           connected, and for them to relocate to that property  
20           after that has been done.  
21   Q. Several have just said, "The flats were in poor  
22           condition and too small". Are people being required to  
23           move in before they have inspected flats?  
24   A. No, they are not. People are choosing these flats  
25           having inspected them and being in full knowledge of

1           what the conditions are.

2   Q.   Thank you.  Relocation strategy under the planning  
3        application.

4   A.   Yes.

5   Q.   Criticisms were made about not meeting the time line.

6   A.   Yes, they were.

7   Q.   Who have criticisms about not meeting the time line come  
8        from?  How many residents?

9   A.   Criticisms about not meeting the time lines again have  
10       come from Mr Cheyne.

11  Q.   Now, we know what the level of consultation response was  
12       to the residents' relocation strategy.  What I want to  
13       ask you -- perhaps this may be of more relevance -- is  
14       what difference has it made to the approach that the LDA  
15       has taken that the relocation strategy under the  
16       planning condition has yet to be approved?

17  A.   It has made no difference to the approach that the LDA  
18       has taken in respect of relocating tenants.  Before the  
19       relocation strategy was due for consideration we were  
20       relocating residents anyway, and we have continued to do  
21       that.  We have continued to work on the opportunities  
22       for community group moves; we have continued to explore  
23       purpose-built housing opportunities.

24  Q.   All right.  Now, you were taken to what I think was  
25       referred to as the "unapproved relocation policy".



1 A. Yes.

2 Q. Yes?

3 A. Yes.

4 Q. Has that been consulted on?

5 A. The relocation strategy has been consulted on, yes.

6 Q. The policy, I am talking about.

7 A. The rehousing policy?

8 Q. The rehousing policy.

9 A. That has been consulted on as well.

10 Q. How many comments did you receive on that?

11 A. I believe we received comments from SNU, which was

12 a collective response on behalf of Clays Lane on the

13 move, and we have received individual comments from

14 Mr Sandison and Mr Cheyne.

15 Q. Any others from individual residents?

16 A. No.

17 Q. You were taken to an e-mail on page 306, I think it was.

18 There was an e-mail exchanged between --

19 A. Can you give me the reference, sorry?

20 Q. Yes, sorry. It is 248/1/63.

21 A. I have that, yes.

22 Q. Okay? And it is the "Dear Lucy" e-mail. I just want

23 to -- do you see it starts, talking about the Park

24 Village Estate?

25 A. Yes.

1 Q. What is the Park Village Estate?

2 A. The Park Village Estate is student housing immediately  
3 adjacent to the Clays Lane Housing Estate.

4 Q. Right. Have you received some complaints about the way  
5 the LDA was dealing with that?

6 A. Yes, we have.

7 Q. Who did you receive them from?

8 A. Mr Cheyne.

9 Q. Anyone else?

10 A. No.

11 Q. Now, you were asked about East London lettings and  
12 rents.

13 A. Yes.

14 Q. And you said that the work had been carried out by  
15 Tribal.

16 A. That is right, yes.

17 Q. And I am not sure if a point is going to be taken about  
18 this, but would it be fair, if criticism were made of  
19 the LDA for getting Tribal to do the work rather than  
20 doing it themselves, would that be a fair criticism, in  
21 your view?

22 A. No, I do not think so. Tribal are by far a more  
23 experienced party in terms of their ability to do that  
24 work; they have more experience in the social housing  
25 sector than the LDA, which is not a rehousing body.

1 Q. Thank you. You were taken to some e-mails at about  
2 page 168, 169 of the bundle. I will give you the  
3 reference: I think it might be 248/1/51. It is quite  
4 a long exchange.

5 A. Yes.

6 Q. But do you remember the documents I am referring to?

7 A. That is right, yes.

8 Q. And there is one at the 20th February, e-mail 11.

9 "I would be grateful for an early answer to my  
10 application made on Wednesday."

11 A. Yes.

12 Q. Do you remember the context of the questions was  
13 a request made for legal advice?

14 A. Yes.

15 Q. Can you just turn over the page. It says:

16 "I regret my application was not accepted when it  
17 was first made before Christmas."

18 A. Yes.

19 Q. Can you just tell us: this request set out in  
20 the February 20th letter, is it the first one that  
21 Mr Cheyne had made, or not?

22 A. No, it was not the first one that Mr Cheyne had made.  
23 We had had discussions before the setting up of the  
24 Independent Tenant Liaison Adviser regarding Mr Cheyne's  
25 desire to get legal assistance, not only with the move

1 but with his objections to the CPO. We made our  
2 position clear in respect of both of those: that legal  
3 assistance in respect of residents' relocation would be  
4 provided by the LDA, but we believed the most effective  
5 way to do this would be to do it through the ITLA  
6 mechanism; that if they did not have the particular  
7 expertise to deal with the specific issues being raised  
8 by Mr Cheyne, that we were happy for them to go and  
9 procure additional advice on behalf of residents on the  
10 basis that this would enable all residents to access  
11 that advice rather than procuring the same advice  
12 separately for each resident.

13 Q. I think you said, to cut to the conclusion, that as far  
14 as you were concerned, you think the matter had been  
15 agreed, but there were some additional conditions that  
16 had been put forward by Mr Cheyne's solicitor recently?

17 A. Right at the end of the process now, yes.

18 Q. Yes. I think a point was made about the time of your  
19 response, and I just want to just leap forward.

20 THE CHAIRMAN: Before we go on, I think there were two  
21 elements to that answer, and I think I only got the  
22 first, because you were indicating that in terms of the  
23 request for legal assistance, one was in relation to  
24 relocation, the other was in respect of the CPO.

25 A. Yes.

1 THE CHAIRMAN: Did you want to continue the answer, or was  
2 it just simply to flag it? Do you want to say anything?  
3 A. No, I think the second one, we made clear our position,  
4 and the end of that story is sat opposite me now.  
5 MR PEREIRA: I think there was then a point made about the  
6 time of your response, and I wonder if you could just  
7 turn forward to item 9 in that bundle. In my documents  
8 it is page 160.  
9 A. Yes.  
10 Q. You see there is an e-mail from Andrew Gaskell to  
11 Julian Cheyne?  
12 A. Sorry, 248/1/9?  
13 Q. Mine does not have a reference on it.  
14 A. Oh, it is e-mail nine of the same set. Sorry, what was  
15 the number again?  
16 Q. 248/1/51, I think.  
17 A. Sorry, I am getting lost in the documents. Number nine.  
18 Q. Yes.  
19 A. Yes.  
20 Q. This is an e-mail of 24th February, so four days after  
21 the one that you were taken to, and I think nine days  
22 after an e-mail before that. What is this e-mail  
23 responding to?  
24 A. It is responding to those two e-mails.  
25 Q. Thank you. And we can see there is then more exchanges

1 in that same bundle, but I am not going to take you to  
2 that. Oh, yes: in an answer to one of the questions  
3 that was put to you, you made reference to the level of  
4 relettings you said mentioned in various reports, or  
5 a report.

6 A. Yes.

7 Q. Just so that we understand what it is you are referring  
8 to, can we turn up your LDA/REB/39.

9 A. Yes.

10 Q. And at appendix 1 to that, you have produced extracts  
11 from the Housing Corporation Statutory Inquiry, have you  
12 not?

13 A. Yes, I have.

14 Q. If you turn to paragraph 6.6 --

15 A. Yes.

16 Q. -- can you see what it says in that paragraph?

17 A. Yes, it says:

18 "However, some 20 years later, the ten and six  
19 person shared housing, even though specially designed,  
20 barely meets customer expectations. This is borne out  
21 by the high turnover of occupancy in the shared housing  
22 units, 58 new lettings between June 2000  
23 and February 2001."

24 Q. I think you were being asked questions about the  
25 strength of the community, were you not?

1 A. Yes.

2 Q. And you drew attention to this in response, and is this  
3 what you were referring to?

4 A. That is right.

5 Q. Thank you. Mr Gaskell, I do not have any more questions  
6 for you, thank you.

7 THE CHAIRMAN: Thank you. I do not have any questions,  
8 thank you.

9 (The witness withdrew)

10 THE CHAIRMAN: I take it, Mr Pereira, that completes the  
11 evidence for the LDA?

12 MR PEREIRA: It does, sir, yes. Thank you.

13 THE CHAIRMAN: The next stage is closing submissions.

14 Mr Wald will go first and then Mr Pereira. Do you want  
15 a short break just to refine those before we go into  
16 them?

17 MR WALD: Sure.

18 THE CHAIRMAN: I think it is sensible. How long would you  
19 like?

20 MR WALD: Ten to 15 minutes.

21 THE CHAIRMAN: Is that enough? Well, it is 2.40 pm, let us  
22 make it 3 o'clock. That gives you 20 minutes. Is that  
23 acceptable?

24 MR PEREIRA: It should be. I do not think we are at risk of  
25 running short of time.

1 THE CHAIRMAN: Do you have any idea as to how long they will  
2 be?

3 MR WALD: Less than an hour; probably a little bit more than  
4 half an hour.

5 MR PEREIRA: Probably about the same, actually. Between  
6 half an hour and an hour.

7 THE CHAIRMAN: Are we comfortable with coming back at  
8 3 o'clock?

9 MR PEREIRA: I think so. Shall we let you know if not?

10 THE CHAIRMAN: If there is any issue, let me know through  
11 the programme officer. I will adjourn until 3 o'clock.

12 (2.40 pm)

13 (A short break)

14 (3.00 pm)

15 THE CHAIRMAN: The Inquiry is resumed. We have now reached  
16 the closing stages of the collective case for Clays Lane  
17 residents and I shall be hearing closing submissions  
18 from Mr Wald and Mr Pereira. I shall take a five-minute  
19 break between the two to assist the stenographer.  
20 Mr Wald, please.

21 Closing submissions by THE OBJECTOR

22 MR WALD: Thank you, sir. I have produced for myself  
23 a speaking note, which unless you particularly wanted  
24 it, I was proposing not to hand in, since we have the  
25 benefit of a transcript today.



1 THE CHAIRMAN: Yes, I am happy with that.

2 MR WALD: In relation to that, I am also conscious that as a  
3 result of that transcript, it has not been necessary to  
4 reproduce large sections of cross-examination and  
5 re-examination. I refer to points here and there, but  
6 because they are easily accessible, I do not propose to  
7 go precisely to each section now.

8 THE CHAIRMAN: No, I am satisfied with that. Thank you.

9 MR WALD: Sir, in closing, then, I start really, we have  
10 spent some time at this Inquiry looking at time lines,  
11 and in my submission they are a matter of great  
12 importance in terms of relocation and the future of the  
13 residents.

14 I start with our own time line, if I may. Wednesday  
15 14th June, there was a round table session. On the  
16 following day, I had my first involvement with this case  
17 and made an application to adjourn. That was  
18 a successful application, and it brought us here over  
19 the last four days. Mr Goemans was instructed on  
20 23rd June, and the statement of case, with some  
21 involvement from him, went in three days later, and  
22 that, of course, was over a weekend.

23 On 5th July 2006, as indicated, sir, by you -- the  
24 residents have done their utmost in order not to regard  
25 these time lines as fluid in any sense, to submit

1 proofs. There was one exception: the proof of  
2 Mr Rodgers that came in later. It was not possible to  
3 assemble that at that date. Then we have appeared at  
4 this Inquiry on four days, the 27th and 28th of last  
5 month and yesterday and today in August.

6 In terms of the framework, as I am sure has been  
7 made clear by others in closing submissions at this  
8 Inquiry, the starting point is Circular 6/2004. The  
9 relevant sections of it are contained in the proof of  
10 Mr Goemans, paragraphs 4.17 to 4.20. But in my  
11 submission, the most important one is paragraph 17,  
12 which states that:

13 "A compulsory purchase order should only be made  
14 where there is a compelling case in the public interest.  
15 An acquiring authority should be sure that the purposes  
16 for which it is making a compulsory purchase order  
17 sufficiently justify interfering with the human rights  
18 of those with an interest in the land. Regard should be  
19 had in particular to the provisions of Article 1 of the  
20 first protocol of the European Convention on Human  
21 Rights."

22 That which relates, sir -- and this is not directly  
23 quoted -- to property, and in case of a dwelling,  
24 Article 8 of the convention.

25 Sir, it is my submission that both apply. Article

1 11 is mentioned in the documents that you may have seen.

2 That is not relied upon.

3 MR PEREIRA: Sorry, I did not catch that.

4 MR WALD: Just to say that although Article 11 is mentioned  
5 in the documents, it is not part of the collective case  
6 that Article 11 is of relevance.

7 Sir, then on to the context of the estate itself.  
8 Plainly the context is quite important. None of the LDA  
9 witnesses has disputed that this is a community, and,  
10 sir, I am sure you will draw your own conclusions as to  
11 whether it is unique or something short of that, but  
12 that at least it exhibits some special features. There  
13 is, even in Mr Gaskell's evidence of today, a permanence  
14 of community spirit that has endured, and you will  
15 recall Mr Sandison's evidence that the ethos has  
16 outlived the co-op's formal status.

17 Mr Prior has confirmed that it is the only  
18 residential zone within the intended Olympic Park, and,  
19 sir, I will come back to that in due course. In my  
20 submission that is an important consideration for you.

21 It is the largest estate of its type in Northern  
22 Europe. In terms of the written and/or oral evidence, one  
23 finds that the closer one gets to the estate itself, in  
24 terms of those that have supplied evidence, the more  
25 valuable it is described to be, and that, sir, is true

1 even in the case of non-partisan witnesses. So those  
2 that have visited it on a number of occasions, and  
3 Mr Goemans has visited it on three occasions, Mr Rodgers  
4 knows it, albeit not as closely as residents themselves,  
5 but the suggestion that I make is that the better you  
6 know it, the more value you ascribe to it.

7 Consider, therefore, sir, I say, the evidence of the  
8 residents themselves, including those short statements  
9 that were appended to Mr Goemans's evidence; also the  
10 evidence of Mr David Rodgers, and in particular his  
11 reference to social capital. That, in his submission,  
12 was something which was worth preserving.

13 What emerges beyond any doubt, in my submission, is  
14 that there is something here worth preserving. This  
15 does not mean that the land cannot necessarily be  
16 acquired. That is not the end of it for the London  
17 Development Agency. But it does mean that the LDA must  
18 do the running. The purpose, sir, as I am sure is well  
19 known in this Inquiry, is to investigate whether that  
20 has been done.

21 Now, a number of questions were put to Mr Goemans  
22 yesterday by Mr Pereira about whether it was now the  
23 case that the necessary evidence would be before the  
24 Secretary of State at the time of confirmation or  
25 otherwise of this CPO. But in my submission, sir, that

1 is not an answer to the question. The reason for that  
2 is the effect of delay. I have asked Mr Gaskell today  
3 about the effect of delay. Mr Prior and Mr Jones were  
4 a little more forthcoming of the effect of delay, and we  
5 have heard from Mr Goemans and from some of the  
6 residents themselves how delay, the missing of  
7 timetables, has affected the community, albeit that  
8 Mr Gaskell maintains that it is strong nonetheless, that  
9 there are aspects of it that wish to remain as  
10 a collective, and that that has outlived both the  
11 co-operative and the delays that the residents have had  
12 to endure.

13 I will return to it, sir, but in short, the effect  
14 of delay is that the social capital is reduced, because  
15 residents tend to give up on the promises that they were  
16 made, and the LDA's own lapse from the intended  
17 timetables means that the matter cannot be salvaged  
18 other than either by the retention of the estate where  
19 it currently exists, or, sir, by some fairly dramatic  
20 intervention from you and/or the Secretary of State.

21 Sir, before I proceed, the re-examination of  
22 Mr Gaskell centred on complaints being made by  
23 Mr Cheyne, and I think it is important to emphasise how  
24 the collective case was pieced together.

25 My solicitors, Irwin Mitchell, went to great pains

1 to ensure that those residents that we represent here  
2 all signed up to the collective case. The option was  
3 given that individuals pursue their case separately, and  
4 in one or two cases, Mr Armstrong is an example of this,  
5 that option was pursued. But those that joined the  
6 collective present a unified case.

7 Mr Cheyne has led a great deal of the exchanges  
8 between the London Development Agency and residents  
9 generally. It is unfortunate, in my submission, that  
10 such great efforts have had to be made by Mr Cheyne in  
11 order to extract information, particularly in the  
12 context of promises made by Mr Winterbottom and the  
13 Mayor. But those requests have been made on behalf of  
14 residents. And you will note from the correspondence,  
15 sir, which I hope you will review, I am conscious that  
16 during Mr Cheyne's evidence, partly because it was  
17 necessary to start and finish Mr Cheyne's contribution  
18 in a single afternoon, that we sped through some of the  
19 documents that relate to his proof of evidence.

20 Well, on close scrutiny, one sees the full picture  
21 of exchange between the London Development Agency and  
22 residents generally. Many of the letters are written in  
23 the first person plural; plainly it is sensible for an  
24 individual to conduct the correspondence, but like  
25 Mr Sandison, who acts officially in the capacity of

1 others, Mr Cheyne acted unofficially in the capacity of  
2 others. So in my submission, sir, it would be quite  
3 inappropriate to see the documents generated by  
4 Mr Cheyne as the complaint of a single individual not  
5 reflected amongst other residents. The fact that we  
6 appear as a collective moves directly against that  
7 contention, if it is made.

8 So, sir, the circular requires a balancing act to be  
9 conducted. In my submission, it is a difficult act, but  
10 it is one that must be performed. That balance involves  
11 a consideration of the public interest in the  
12 acquisition of the Clays Lane Housing Estate against the  
13 public and private losses arising from its demolition.  
14 This necessarily requires a close consideration of the  
15 nature, quality and effect of the relocation strategy.

16 Sir, there is a degree of confusion about what is  
17 meant by the relocation strategy. Mr Gaskell drew  
18 a distinction between a Relocation Strategy, with a big  
19 R and a big S, and one with a small R and a small S.  
20 Plainly, the capitalised version does not exist, because  
21 there is not an approved strategy, and the requirements  
22 of that have not been met. There is, it seems, a shadow  
23 strategy, which is the invention of the London  
24 Development Agency; it has not benefited -- or the  
25 residents have not benefited from its scrutiny or

1 monitoring, and Mr Cheyne has indicated that it is the  
2 scrutiny and monitoring issues that resulted in it being  
3 withdrawn when submitted to JPAT.

4 Sir, what is the relevance to you and the Secretary  
5 of State of the relocation strategy? Well, sir, in my  
6 submission, it is central in terms of its importance,  
7 because to the extent that there is a loss in social  
8 capital, that loss can be reduced, mitigated or even,  
9 I suppose the possibility is there, avoided, by  
10 a careful, well-advanced and well-informed relocation  
11 strategy that considers properly the individual and  
12 group needs of the residents of the Clays Lane Estate.

13 Sir, I submit that bound in with this is  
14 a consideration of the expressions of intent, or we call  
15 them "promises", made at the early stages of this  
16 process: see the two Winterbottom letters of 2003  
17 and June 2004. Look at the answers that were given by  
18 the Mayor. Look at the content of the Fluid Report, and  
19 look at the subsequent departures from these. If one  
20 follows the chronology that is set out in Mr Cheyne's  
21 evidence, one sees what appears to be an abandonment of  
22 the consultation process, and of attempts to exclude the  
23 Clays Lane Housing Estate from the acquisition lands.

24 Mr Prior yesterday perhaps assists us in  
25 understanding how that came about. He viewed the grant



1 of a permission as tantamount to the endorsement of the  
2 LDA's view that the Clays Lane Estate could be removed.  
3 It was no such thing. But it does, in terms of the time  
4 line, help to explain why the full processes that one  
5 would expect and that one should expect of consultation  
6 and attempts to retain the Clays Lane Estate seem to  
7 have been put either on the back-burner or abandoned  
8 entirely.

9 So, sir, to be clear, it is possible that the London  
10 Development Agency could show a compelling case for the  
11 acquisition of this site, albeit that our case is that  
12 it has not done so, but still stumble at the hurdle of  
13 the relocation strategy. Because even if there were  
14 a compelling case in terms of need, that has to be  
15 weighed against the loss of social capital, and if there  
16 is not a coherent and timely one in place that involves  
17 the residents, that loss may not be able to be avoided.

18 Sir, the logical sequence is to look first at the  
19 red line argument, ie that the Clays Lane Housing Estate  
20 should be omitted from the acquisition lands, since if  
21 that is not made out, the relocation issue falls away  
22 and the CPO, so far as the Clays Lane Housing Estate is  
23 concerned, should not be confirmed.

24 Sir, I take this opportunity to emphasise that so  
25 far as the collective case is concerned, it is

1 a site-specific objection. Much of Mr Prior's  
2 evidence-in-chief was spent in looking at the general  
3 need for Olympic lands, but without condescending to the  
4 detail of the Clays Lane Housing Estate site. The  
5 collective case is that that particular site has not  
6 been shown to the requisite standard to be required.

7 Sir, the next section of my closing relates to the  
8 public interest in the acquisition of the Clays Lane  
9 Housing Estate. As to that, Mr Prior confirmed that  
10 special consideration ought to be given to a residential  
11 site of this type, and that every square inch of  
12 required land needed to be justified in terms of the  
13 compelling case. That was in the course of  
14 cross-examination. General though it may be, in my  
15 submission, it is nonetheless telling that Mr Prior's  
16 main proof does not make the justification for the Clays  
17 Lane Housing Estate acquisition explicit, and even in  
18 the rebuttal, we are offered no more than a simple  
19 table, table 5.6, sir, that you may recall from his  
20 appendix, which does not include a consideration of  
21 disruption to the community.

22 Given the high hurdle to be surmounted, and the  
23 human rights matters that are engaged in the process,  
24 one would have expected more than this and sooner.

25 Sir, I am conscious that Mr Prior referred to other

1 material, fuller investigations that were conducted.  
2 None of that is before this Inquiry or before you, sir.  
3 It cannot be regarded, and his mere assertions that  
4 consideration was given to the retention, for example,  
5 of the Clays Lane Housing Estate need to be supported by  
6 documents.

7 That is not, so that I can be clear for Mr Prior's  
8 sake, to say that perhaps conversations may or may not  
9 have happened, but if it is a central issue, bearing in  
10 mind it is the only residential site within the Park,  
11 one would expect to have more than a witness at the  
12 eleventh hour making vague references to conversations  
13 held on that subject.

14 Mr Prior also confirmed that the northern sector of  
15 the Park was a particular area of flux in terms of  
16 facilities within the Park. Sir, the Poplar document  
17 of November 2003, which you have kindly helped us  
18 identify today, considers either retention of the  
19 Clays Lane Housing Estate or its removal to Stratford  
20 City, as does the UDP policy that talks about  
21 establishing a link between the relatively isolated  
22 Clays Lane site and Stratford City.

23 Mr Prior's main proof describes some of the jigsaw  
24 puzzles of moving facilities in and out of the  
25 Clays Lane Housing Estate site. Sir, I think you have

1 already been referred to the relevant paragraphs. There  
2 is, that follows on from that, the revisions that were  
3 made in January and June of 2006. In my submission,  
4 these changes, the fluidity or state of flux of this  
5 part of the Park, gives rise to the presumption that the  
6 Park is peripheral both physically and conceptually.

7 As to its physically peripheral nature, Mr Goemans  
8 indicated how the facilities could be reconfigured in  
9 order to free up space at the Clays Lane Housing Estate.  
10 The residents are necessarily limited -- or the  
11 residents and their professionals have been necessarily  
12 limited in terms of the time and resources that can  
13 possibly have been given to this subject. But, sir, in  
14 my submission, they have had a go. Mr Goemans has  
15 looked at densities, has considered a recent document  
16 that seeks an increased housing density at Stratford  
17 City. He has considered the issue of levels, security  
18 also. These suggested impediments to the retention of  
19 the Clays Lane Housing Estate have been investigated so  
20 far as it is reasonable to expect them to have been on  
21 behalf of the residents.

22 Add West Ham into the equation and one starts to see  
23 how a degree of flexibility might have resulted if the  
24 will and the focus had been there in the retention of  
25 a valuable community.

1           In any event, sir, and perhaps this does need to be  
2 stressed, the burden of proof is firmly on the London  
3 Development Agency. It is for the Agency to do the  
4 running in establishing that compelling case. That  
5 involves a consideration of alternatives that do not  
6 affect a community in the way that this would. That  
7 burden of proof, sir, in my submission, has simply not  
8 been discharged.

9           Sir, I referred to both physical and conceptual  
10 peripheral natures. In terms of the conceptual nature,  
11 this, in my submission, raises doubts about the  
12 compulsion of the LDA's case.

13           I move now, sir, on to the question of the public  
14 interest in the retention of the Clays Lane Housing  
15 Estate, and I remind you of the statements made by  
16 residents, particularly the very full statement relating  
17 to design and the effect that that has had on the  
18 community submitted by Mr John Sole.

19           Mr Goemans confirmed the link between its design  
20 features and the extent of community life at the Clays  
21 Lane Housing Estate.

22           It is not submitted that the buildings on the estate  
23 are or even should be listed. It is submitted that that  
24 would be a rare event on a housing estate in any event.  
25 But it is submitted, as Mr Goemans stated in evidence,

1           that the design features on the site create a high  
2           degree of community life, which would be difficult to  
3           reproduce.

4           Furthermore, the 47 per cent, and here I am  
5           extrapolating, adopting the statistical analysis that  
6           Fluid adopted, who expressed a will to continue with  
7           community life, is a very high degree of continued  
8           community ambition. Again, sir, one can hypothetically  
9           consider what result might have been reached in relation  
10          to other estates.

11          Even this, sir, does not truly reflect the degree of  
12          community life that has existed and could continue to  
13          exist at the Clays Lane Estate, or a properly identified  
14          alternative, and that is because there are, if I can put  
15          it in this way, a degree of committed communitaire  
16          residents. There are others who may derive benefits  
17          from the community, but when the question is put as  
18          starkly as it has been, may decide that their future  
19          lies elsewhere. So it is not clear that the number that  
20          express a desire to remain within the community is  
21          a proper reflection of the full functioning of that  
22          community.

23          Sir, I would remind you also of the personal  
24          testimonials appended to Mr Goemans's evidence relating  
25          to the support structure, particularly for vulnerable

1 residents, and from those, one has an idea of the great  
2 importance of this facility and, in Mr Rodgers'  
3 expression, the social capital existing at the estate.

4 Where is the evidence that the London Development  
5 Agency has considered this? In my submission, it is  
6 nowhere to be seen. The table that was referred to by  
7 Mr Prior does not deal with the detail of disturbance.

8 Mr Prior said, and we must take it at his word, that  
9 there were discussions about the human element and about  
10 the possibility of a retention of the estate, and that  
11 these were considered at the stage of each modification.  
12 But even still, as I have said, if this were a pressing  
13 matter, as it surely should have been, one would expect  
14 to find a paper trail.

15 Mr Prior candidly admitted that he had not  
16 appreciated that different tests were to be applied by  
17 the Secretary of State in confirming or not this CPO,  
18 and each part of it, as compared with those applied by  
19 the local planning authority, or in this case local  
20 planning authorities, in granting planning permission.  
21 He added that he had taken the JPAT planning permission  
22 in 2004, a month after Fluid, to be an endorsement of  
23 the LDA view that Clays Lane Housing Estate should go.  
24 It was and is no such thing. But as I have indicated at  
25 the outset, it may assist in the overall understanding

1 of why nothing concrete appears to have been done or  
2 even considered regarding the retention of the Clays  
3 Lane Housing Estate since this date.

4 Mr Goemans has pointed to the regeneration  
5 sustainability advantages of the retention of the  
6 Clays Lane Housing Estate, which have not made their way  
7 into the London Development Agency's case, and in my  
8 submission should have done.

9 Sir, next I turn to the private interests. Although  
10 absent from Mr Prior's table at 5.6, the disruption to  
11 the lives of residents, including their Article 8 and  
12 Article 1 Protocol 1 rights, is clear. This also seems  
13 to be absent from the LDA case. Mr Jones' excessively  
14 legalistic interpretation of the Grampian condition  
15 attached to the planning permission discloses, in my  
16 submission, a worrying disregard on the part of the LDA  
17 of the effect of the scheme, the Olympic scheme, on the  
18 lives of individuals, many of them vulnerable.

19 Sir, I turn to the matter of relocation, and  
20 emphasise again that for the chronology of events, one  
21 must look at the proof of evidence submitted by  
22 Mr Cheyne on behalf of the collective case and the  
23 appendices, some of which we have looked at in detail,  
24 others not so.

25 Sir, Mr Gaskell today has confirmed what is, in my



1 submission, a confusion about what is meant by the  
2 relocation strategy. There is an official version, not  
3 approved; an unofficial version that need not be  
4 approved. In the meantime, monitoring and supervision  
5 are left at the wayside. It is a wholly unsatisfactory  
6 state of affairs so far as the residents are concerned.  
7 The residents' case is that if the Winterbottom, Mayor  
8 and even Fluid promises had been met and met properly,  
9 if early relocation, or at least a strategy had been  
10 achieved, then much of the social capital of the  
11 Clays Lane Housing Estate might have been preserved, but  
12 the LDA has left it too late.

13 Sir, much of the evidence on relocation derives from  
14 the documents submitted by Mr Cheyne. It is not clear,  
15 in the references made to their number and the items of  
16 correspondence that Mr Cheyne generated, whether there  
17 is an implied criticism of Mr Cheyne. In my submission,  
18 the documents that he has extracted are necessary,  
19 relevant, and do not contain much, if any, surplusage or  
20 duplication of material. Again, where it is said that  
21 at least by now the Secretary of State has enough  
22 material before him or her to reach a view, depending on  
23 who determines this decision eventually, on the quality  
24 of relocation, then this is simply not good enough.

25 Many of these documents came about through the

1 result of persistence, in the face of unanswered  
2 requests, and Freedom of Information requests. In my  
3 submission, objectors should not be reduced to this when  
4 it is for the acquiring authority to set out its stall  
5 and demonstrate a compelling case in the public  
6 interest.

7 An example, sir: paragraph 57.5 of Mr Cheyne's  
8 evidence includes references to discontented relocated  
9 tenants. Mr Cheyne was not challenged on their identity  
10 during his cross-examination. Mr Goemans was. But it  
11 is to be expected, perhaps, that Mr Goemans would not  
12 know of their particular identities. This is an example  
13 of information that ought to be within the possession,  
14 within the knowledge, of the London Development Agency.

15 So, sir, the conclusions that Mr Cheyne reaches at  
16 paragraph 70 and 71 of his proof of evidence in relation  
17 to the relocation strategy, at page 35 maintain. He  
18 states at 70:

19 "It is plain a large number of Clays Lane residents  
20 do indeed appreciate the community they have lived in  
21 and helped to create. This seems to be confirmed by  
22 Mr Gaskell's evidence of today. It has inspired in them  
23 sufficient desire to want to continue to live in  
24 a community should they be forced to move. Fluid  
25 remarked on Clays Lane's unique qualities and that

1 finding still holds true.

2 "71. The Clays Lane residents have been subjected  
3 to a tardy, poorly prepared, badly informed relocation  
4 programme. Promises [that is what we call them] have  
5 been discarded along with information given in good  
6 faith. Extraordinary arguments have been advanced to  
7 justify this behaviour. The community includes people  
8 from other parts of the world, vulnerable individuals,  
9 people who are not familiar with the kind of procedures  
10 they now find themselves confronting. This stressful  
11 experience has resulted in people leaving who would have  
12 preferred to stay. Despite this, it is plain there  
13 remains a substantial demand to continue to live in  
14 a community, a hope fostered by the experience gained  
15 through living at Clays Lane."

16 Sir, I now turn to consider a point or two that has  
17 arisen in the context of the Fluid Survey. There have  
18 been various semantic arguments. You heard today from  
19 Mr Gaskell that he describes the qualifications that  
20 were applied to the Winterbottom promise as mere  
21 clarification. Sir, I leave it to you to decide whether  
22 "like-for-like or better" is the same as that "so far as  
23 reasonably practicable". It may have been a generous  
24 promise; in my submission it was no such thing. It was  
25 what is to be expected. But that promise gives rise to

1 the expectation on the part of residents that they will  
2 get like-for-like, if not better.

3 The limitation that it be so far as practicable  
4 opens up all sorts of potential excuses. Sir, in my  
5 submission, that promise includes the provision of  
6 accommodation at comparable rents, and that issue of  
7 affordability, so that it is clear, derives from the  
8 statements that Mr Winterbottom and the Mayor have made.

9 Sir, I have addressed you already on the importance  
10 of sticking to the time lines that are indicated in the  
11 Fluid Report. What is the effect of not doing so? The  
12 most striking illustration of the effect of delay is the  
13 time frame indicated by Mr Goemans of what it would take  
14 to get a new build in place. That three-year period was  
15 not challenged in cross-examination. With the summer  
16 2007 eviction date looming large, this simply now cannot  
17 be met. The response to that, it seems, is that there  
18 could be a double decant; that residents should be  
19 subjected to two moves in order to enable a later  
20 arrival at a new build. But both Mr Cheyne and  
21 Mr Goemans have described other effects of delay that  
22 are not resolved by a double decant, and these  
23 include -- and, sir, I do emphasise them, they are at  
24 the heart of this objection -- the reduction of the  
25 community itself; a piecemeal relocation by residents

1           who fear for their future, the loss of hope or  
2           expectation that promises given will be fulfilled. The  
3           shift away from that 2004 Winterbottom letter that is  
4           clearly evident in the November newsletter means that  
5           residents, quite understandably, will take matters into  
6           their own hands or accept quickly what they are offered,  
7           without the full process of consultation into that  
8           matter of relocation. In my submission, these delays  
9           mean that the promised consultation cannot in any  
10          realistic sense now take place.

11           In terms of information supplied, sir, this also  
12          derives from a promise made in Mr Winterbottom's 2004  
13          letter. The residents have had a truly Herculean task  
14          in extracting information. Mr Sandison has got some of  
15          it, Mr Cheyne has secured other parts, and it was  
16          telling that considerable reliance was placed on  
17          Mr Cheyne's documents in the course of Mr Gaskell's  
18          evidence-in-chief. Plainly that evidence-in-chief  
19          related to matters that had been raised, and some of  
20          them were documents raised in the course of Mr Cheyne's  
21          evidence. But, as I say, I think the relevance of those  
22          documents is clear, is plain. They assist, so far as  
23          the residents have been able to do so, to describe such  
24          attempts as have been made towards relocation, and they  
25          assist, in my submission, in showing the flaws in that

1 process.

2 So in my submission the argument about the  
3 confidentiality of the information supplied to Fluid  
4 should not have taken the time that it did. The answers  
5 to the questionnaires, if they are to be meaningful,  
6 must be shared within the LDA itself. The CBHA survey,  
7 which as Mr Gaskell clarified today was intended to  
8 complement the Fluid Survey, needed to consider  
9 individual needs as well as collective needs. It needed  
10 the full information that was supplied.

11 In terms of information, sir, the round table  
12 session that took place on the 14th June was conducted  
13 on the basis of an already defunct plan, and this in my  
14 submission is a stark example of how residents have, to  
15 a degree, been kept in the dark. Promises of a site  
16 have not been fulfilled, notices posted within the  
17 community centre are again not the true meaning of what  
18 was indicated in Mr Winterbottom's letter.

19 Sir, a couple of legal points arise. You may have  
20 noticed two documents that have been placed on your  
21 lectern there. The first is a case, Crown v Devon  
22 County Council Ex parte Baker, and the second is an  
23 extract from Michael Fordham's Judicial Review Handbook.

24 The purpose of these is to support an argument that  
25 a legitimate expectation arose as a result of the

1 promises made by Mr Winterbottom and the Mayor, as well  
2 as a course of dealing with residents following that.  
3 It is not a substantive legitimate expectation, it is  
4 not the expectation of a particular result or outcome,  
5 but it is a legitimate expectation of a process, one  
6 which involved residents fully, through proper  
7 consultation, and in relation to consultation, sir, you  
8 have before you the section of the Judicial Review  
9 Handbook that deals with procedural fairness. I will  
10 turn to that in a moment.

11 In my submission, the promises made and relied upon,  
12 together with that early course of dealing, gave rise to  
13 a legitimate expectation that there would be a full and  
14 transparent process of relocation, including  
15 consultation with the residents themselves. In the  
16 Ex parte Baker case, the Court of Appeal held, in  
17 relation to whether a local authority was under a duty  
18 to consult with the residents of a home for old people  
19 which the authority proposed to close, that:

20 "The Authority owed the permanent residents of the  
21 home a duty to act fairly in making the decision to  
22 close the home, which duty included the duty to consult  
23 over the proposed closure. The essentials of any  
24 consultation in that context required that the residents  
25 be informed of the proposed closure of their home well

1 in advance of the final decision on the matter; that the  
2 residents have reasonable time in which to put their  
3 objections to the proposed closure to the local  
4 authority; and that those objections be considered by  
5 the local authority."

6 I am reading from page 74, halfway down.

7 THE CHAIRMAN: I am with you, thank you.

8 MR WALD: Following on:

9 "The prima facie obligation to accord procedural  
10 fairness did not mean that each individual resident had  
11 an individual right to be consulted face to face by  
12 local authority officers or groups of councillors and  
13 could be achieved by meetings held by local authority  
14 officers with the residents generally at a particular  
15 home or by views expressed through the support group."

16 Sir, the facts of this case are not entirely  
17 dissimilar to those of ours. It may be said in  
18 submission that the requirements of those meetings have  
19 been met. But again, my instructions are at odds with  
20 the assertions made about the degree of consultation,  
21 the number and type of meetings that were held, and what  
22 we do not have before this Inquiry is documentary  
23 evidence to back up that after the Fluid Report and  
24 before the September meetings this was an ongoing and  
25 genuine process.



1           Sir, the case touches upon the requirements of  
2           consultation, but a fuller consideration of it is  
3           contained within the Judicial Review Handbook.  
4           Procedural unfairness; just to start at 997 of the  
5           extract of the Judicial Review Handbook, it states that:

6           "A body must adopt a fair procedure, giving those  
7           affected a fair and informed say."

8           60.6, over the page, deals with adequate  
9           consultation:

10          "In many situations only the legal standards of  
11          a proper consultation exercise will suffice. That means  
12          consultation: (1) at a time when proposals are still at  
13          a formative stage; (2) with sufficient information and  
14          reasoning to allow a proper and informed response; (3)  
15          with adequate time; and (4) resulting in conscientious  
16          and open-minded consideration."

17          Sir, 60.6.2 refers to the Sedley requirements of  
18          consultation, and they are not dissimilar:

19          "(1) consultation must be at a time when proposals  
20          are still at a formative stage; (2) the proposal must  
21          give sufficient reasons for any proposal to permit of  
22          intelligent consideration and response; (3) adequate  
23          time must be given for consideration in response; and  
24          finally, (4) the product for consultation must be  
25          conscientiously taken into account in finalising any

1 proposals."

2 Sir, whatever view is taken as to the assertions  
3 made as to consultation by Mr Gaskell today in  
4 cross-examination, in my submission, they plainly fall  
5 short of the requirements of consultation, the legal  
6 requirements of consultation, that one sees by reference  
7 to those Sedley principles.

8 Sir, I suppose an illustration of that, I give no  
9 more than an illustration, because one intends in  
10 closing submissions, such as these, to highlight certain  
11 points rather than to be encyclopaedic: the supervisory  
12 function of the LDA was something that was set out and  
13 we would say promised at page 280 of your document  
14 bundle. There is a box to the bottom of the extract  
15 from the Fluid Report, it is page 15 of the report. It  
16 is the summary version of it:

17 "If a number of Clays Lane residents decide that  
18 they would like to be rehoused in a co-operative or  
19 collective housing arrangement then it would be for the  
20 RSL that succeeds CLHC to investigate the feasibility of  
21 this. The LDA is committed to the relocation of all  
22 Clays Lane residents and therefore will maintain a high  
23 degree of responsibility over the process in order to  
24 ensure that all residents are rehoused. No matter which  
25 RSL is in charge of the housing allocations, they will

1 be accountable to the LDA. The LDA will steer the  
2 process and judge it according to regulatory benchmarks  
3 to ensure its commitment to the residents is carried  
4 out."

5 Well, sir, whatever view you take of the procedural  
6 safeguards in place as asserted by Mr Gaskell today,  
7 when set against the detail that is included in  
8 Mr Prior's evidence, in my view, that particular promise  
9 was not fulfilled or discharged.

10 THE CHAIRMAN: Sorry, excuse me. The detail of Mr Prior's  
11 evidence?

12 MR WALD: Excuse me, I meant Mr Cheyne's. Thank you, sir,  
13 for that correction. And even in the absence of that  
14 particular promise, the legal requirements of the  
15 consultation generally have not been met.

16 Sir, there is one final legal point that is raised  
17 by the LDA itself in Mr Blacker's proof of evidence,  
18 which is LDA/GB/1, paragraph 3.10. Sir, Mr Blacker  
19 refers to section 27 of the Regional Development  
20 Agencies Act of 1988 as amended by the GLA Act of 1999.  
21 It states that:

22 "The Mayor may provide guidance or direction to the  
23 London Development Agency in relation to its functions  
24 and may issue a direction restricting the LDA in the  
25 exercise of its functions or require it to exercise its

1 functions in a particular manner."

2 Sir, you have the responses to questions put to the  
3 Mayor. In my submission, the answers to those questions  
4 amount to guidance within the meaning of Section 27 of  
5 the Regional Development Agencies Act of 1988. That is  
6 a further reason beyond the legal requirements of  
7 consultation, and the legitimate expectations that arose  
8 on the basis of promises made, why the guidance should  
9 have been followed, and if one compares what is promised  
10 to what was delivered, one sees that that guidance has  
11 not been followed.

12 Sir, I turn to my conclusions now.

13 I emphasise that Mr Goemans' conclusions are  
14 followed; not the draft conclusion which made its way  
15 erroneously into the final cut, but those that he  
16 expressed, he and others expressed clearly in the  
17 statement of case, and in his oral evidence, and in the  
18 remainder of his proof itself.

19 The absence of a discussion of the compelling case  
20 in the body of the proof itself, in my submission is  
21 only supportive of the conclusion expressed, that there  
22 is none demonstrated, and a reminder that the burden of  
23 proof is on the London Development Agency and not the  
24 residents or Mr Goemans.

25 Sir, in my submission, the method of drafting of

1           that proof of evidence, as explained in  
2           cross-examination and elaborated upon in re-examination,  
3           shows only the care, and it may, sir, sound paradoxical  
4           to describe as an illustration of care taken, an error  
5           that crept its way into the conclusion, but I do say,  
6           sir, that Mr Goemans came to this matter with an open  
7           mind. He came to it late on, and when the London  
8           Development Agency, through Mr Roots, objected to the  
9           application for an adjournment, it was suggested that  
10          six weeks was not a long time to find and instruct an  
11          expert, and that one knew not what conclusions the  
12          expert might reach in relation to the case. Sir, we and  
13          Mr Goemans in particular were prepared for the  
14          possibility that he could advance no case on behalf of  
15          the residents. That was not the conclusion he reached,  
16          and in re-examination, he confirmed to the Inquiry that  
17          the more he learnt of this case, the stronger he felt  
18          the objection was.

19                 Therefore, sir, the LDA has failed to surmount the  
20          high hurdle of demonstrating a compelling case in the  
21          public interest for the acquisition of every square inch  
22          of the Clays Lane Housing Estate site.

23                 Alternatively, the London Development Agency has  
24          failed to consider properly or at all the special  
25          features of the Clays Lane Housing Estate, and the

1 nature and extent of the resulting community, and has  
2 therefore not conducted, albeit perhaps a trapeze like  
3 balancing act, has not conducted that balancing act  
4 required by the circular to which I have referred.

5 Part of this balance engages the relocation  
6 strategy, which was all but abandoned until it was too  
7 late. Not too late, sir, for strict compliance with the  
8 Grampian condition, but too late for a proper,  
9 meaningful consultation process and a fair deal offered  
10 to the residents and the community or communities that  
11 existed amongst them. Therefore, the public and private  
12 losses which would result from the inclusion of the  
13 Clays Lane Housing Estate within the red line cannot now  
14 be compensated for or mitigated. Even at this stage,  
15 Mr Gaskell says it is ongoing, through late consultation  
16 and relocation.

17 On that analysis, sir, the Clays Lane Housing Estate  
18 should and could -- it is after all geographically  
19 peripheral -- be omitted from the acquisition lands.

20 Alternatively, sir, if you are not with us on that,  
21 our primary submission, the inclusion of it or any part  
22 of it should be predicated or conditioned on some  
23 concrete action points to be taken in relation to  
24 relocation, such as any meaningful relocation can exist  
25 at this late stage.

1           Sir, you have as an appendix to Mr Cheyne's evidence  
2           action points which follow shortly after identified  
3           flaws in the relocation strategy. Those are for your  
4           consideration.

5           It may be, sir, that you are minded to confirm the  
6           CPO in relation to this site, subject to compliance with  
7           a number of measures. Mr Cheyne draws attention to some  
8           of those measures. Added to them, in my submission,  
9           should be a provision whereby those that have already  
10          been relocated are offered the opportunity to resume  
11          community life in whatever fully consulted upon  
12          relocation strategy and relocation is finally devised.

13          Sir, I emphasise that the primary submission is that  
14          the compelling case has not been made out, and that the  
15          Clays Lane Housing Estate should therefore be omitted  
16          from the red line. And in the alternative, residents,  
17          both current and relocated, should be afforded a proper  
18          opportunity to devise suitable alternatives that meet  
19          the promises made by Mr Winterbottom and the Mayor.

20          Sir, those are the closing submissions on behalf of  
21          the residents of the Clays Lane Housing Estate.

22    THE CHAIRMAN: Thank you, Mr Wald. There was one document  
23          to be cleared up, I think, and that was the one in terms  
24          of the definitive list of clients at the opening of this  
25          collective appearance last Thursday. I wonder whether

1           that has been prepared and handed in?

2   MR WALD:   Sir, I think it is available, but would need to be  
3           e-mailed possibly to the programme officer, which can be  
4           done in the morning.

5   THE CHAIRMAN:   Thank you.   I would be grateful for that.

6           Mr Pereira, is there any issue on that?

7   MR PEREIRA:   No, there is not, but I would like, before my  
8           learned friend puts his pen down and takes a rest, I  
9           would be grateful if he could just clarify something for  
10          me in his submissions.   We have been shown an extract  
11          from a case dealing with consultation, and it has been  
12          said that somehow the LDA had breached these principles.  
13          But certainly in my note I did not get any note of any  
14          particular allegations being made.   There are four  
15          principles in the Sedley principles and I do not think  
16          it was made clear which of those is said to be breached  
17          and how, and I wonder if that could be clarified so that  
18          I can respond?

19   THE CHAIRMAN:   Mr Wald, can you give that clarification?

20   MR WALD:   Sir, I can.   The first one relates to consultation  
21          at a time when proposals are still at a formative stage.  
22          Well, plainly some relocation has already happened.   The  
23          formative stage was back at the time of the Winterbottom  
24          letter.   Even the September meetings of 2005 are in my  
25          submission too late and fail this first of the Sedley



1 tests.

2 The second of the Sedley principals is not relied  
3 upon.

4 Sir, the third is, and links with the first, that  
5 adequate time must be given for consideration and  
6 response.

7 Sir, the issue here is that with it being an ongoing  
8 process, residents are leaving even as consultation is  
9 being considered, not conducted. I think a good example  
10 of this, sir, if it helps you or my learned friend is  
11 the promise of a housing policy, which has, as  
12 I understand it, only just arrived. You had evidence of  
13 this in Mr Cheyne's proof. Well, we know that some of  
14 the residents have already been relocated. Plainly they  
15 do not have adequate time for consideration and response  
16 of the housing policy.

17 The fourth principle is relied upon.

18 A further example of that is the SNU group move,  
19 which was only conducted in June. It is a further  
20 example of a phase in this process being conducted so  
21 late that many of the affected residents will not have  
22 an opportunity to contribute to that process.

23 Finally, the fourth is relied upon:

24 "The product of consultation must be conscientiously  
25 taken into account in finalising any proposals."

1           Sir, that relates to the use of questionnaire  
2           evidence, for example. If it is not shared with the  
3           bodies charged with devising the relocation strategy,  
4           assisting the residents with relocation, it is difficult  
5           to see how that product of consultation can be  
6           conscientiously taken into account. So the answer to my  
7           learned friend's question is that three of the four  
8           Sedley requirements are relied upon.

9   THE CHAIRMAN: Thank you, Mr Wald, for that clarification.  
10           As I indicated earlier, I will take a short adjournment.  
11           Mr Pereira, do you want a little longer? I had  
12           indicated five minutes.

13   MR PEREIRA: I think, could we have until 4.10 pm?

14   THE CHAIRMAN: Yes, you can. I will adjourn for ten  
15           minutes.

16   (4.03 pm)

17   (A short break)

18   (4.10 pm)

19   THE CHAIRMAN: The Inquiry is resumed. Mr Pereira, are you  
20           ready to deliver your closing submissions, please?

21   MR WALD: I am, sir.

22   Closing submissions by THE LDA

23   MR PEREIRA: Sir, before dealing with the detail of this  
24           objection, the LDA makes a number of important  
25           submissions that set the context within which it falls

1 to be considered.

2 Sir, first the evidence has clearly established: (a)  
3 the need for regeneration of the Lower Lea Valley; (b)  
4 that the delivery of that regeneration in  
5 a comprehensive fashion is most likely to be achieved  
6 through the preparations for and staging of the Olympic  
7 games; and (c) the concept of the Olympic Park  
8 containing as many sports venues as possible, and the  
9 athletes' village, is not only highly desirable but  
10 probably the single most decisive factor in London's  
11 success in being chosen by the IOC -- see Mr Prior's  
12 evidence, transcript day 39, page 169.

13 There is no need to repeat that evidence in detail  
14 but merely to remind ourselves that it exists. Indeed,  
15 it is common ground, since Mr Goemans has expressly  
16 agreed in cross-examination with each of the  
17 propositions set out in Mr Prior's main proof of  
18 evidence at paragraphs 3.21 to 3.27, the objectors'  
19 statement of case does not seek to argue any  
20 differently.

21 For the purposes of this objection, therefore, any  
22 assessment of whether a compelling case has been made in  
23 the public interest must take as a given that  
24 confirmation of the CPO would achieve the regeneration  
25 claimed by the LDA. It inevitably follows, in the LDA's

1 submission, that if the Secretary of State finds that  
2 the Clays Lane site is needed for the Olympics, a  
3 compelling case in the public interest exists.

4 With respect to the objectors and Mr Goemans'  
5 approach in particular, it is simply not sensible to  
6 suggest that any claim to public interest from the  
7 retention of the Clays Lane Estate could outweigh the  
8 public interest in favour of the CPO once a finding is  
9 made that the site of the Clays Lane Housing Estate is  
10 needed. The LDA invites the Inspector and the Secretary  
11 of State to make such a finding.

12 Secondly, although the objection has been referred  
13 to variously as an objection by the Clays Lane residents  
14 or as the Clays Lane residents' collective case, it is  
15 apparent that the true level of support for the case  
16 that has been presented is, even at this stage, entirely  
17 unclear. There are about 60 people listed as  
18 Irwin Mitchell's clients for the purposes of this  
19 objection, but there is no evidence as to how that list  
20 has been arrived at, and no evidence that Irwin Mitchell  
21 have themselves taken direct instructions from each  
22 person.

23 Sir, I should pause there to say, my learned friend  
24 in closing sought to make up this deficiency in his case  
25 by referring to Irwin Mitchell having people signed up

1 to the case, but we have no evidence at all as to the  
2 extent to which those people listed as clients of  
3 Irwin Mitchell actually subscribe to the various points  
4 made by Mr Cheyne and by the other witnesses.

5 Sir, you will recall that Mr Goemans, whose task it  
6 was to bring together the different threads of the case  
7 and present the overall view, was unable to give any  
8 assistance to you or to the Secretary of State as to  
9 what, if any, common objections linked the people listed  
10 as clients of Irwin Mitchell.

11 Sir, this comment should come as no surprise,  
12 bearing in mind that the LDA have been asking for  
13 information about Irwin Mitchell's clients since their  
14 earliest involvement in connection with the application  
15 for funding.

16 As I have said, Mr Goemans was unable to give any  
17 evidence at all as to how many of those clients were  
18 interested in a group move, what the matters of concern  
19 to any of them were, and whether there was any common  
20 theme linking their objection apart from the fact that  
21 they were objecting. No evidence has been given to  
22 suggest that the objectors' statement of case or the  
23 evidence presented has been given any approval by the  
24 group of clients as a whole.

25 Mr Goemans confirmed that at the meeting he had had

1 on site, there have only been eight or nine people in  
2 attendance. It would therefore be wrong for the  
3 Secretary of State to infer that the number of clients  
4 enlisted by Irwin Mitchell was a reflection of the  
5 support the case presented to the Inquiry has from those  
6 listed, let alone from the other occupants of  
7 Clays Lane. The Inquiry simply does not know the extent  
8 to which any of the individuals who have not given  
9 evidence support any of the points made in the so-called  
10 group case.

11 This is not an academic or minor technical point.  
12 The objectors themselves refer to and rely on circular  
13 6/2004 at paragraph 18, which advises that the  
14 confirming authority will take a balanced view between  
15 the intentions of the acquiring authority and the  
16 concerns of those whose interest in land it is proposed  
17 to acquire. They rely on the Human Rights Act to  
18 enforce the weight to be attached to their side of the  
19 balance. The LDA's evidence has addressed their side of  
20 that balance: how is the Secretary of State to know who  
21 of the residents, apart from those who have given  
22 evidence, really have concerns, and what really are  
23 those concerns?

24 Thirdly, it is a central plank of the objectors'  
25 case that there is something unique about Clays Lane,

1 the loss of which would harm the public interest -- see  
2 Mr Goemans, paragraph 2.1, and the statement of case at  
3 paragraph 2.5.

4 It is necessary to distinguish between the physical  
5 characteristics of the estate and the characteristics of  
6 the group of people who happen to be there at present.  
7 With regard to the physical characteristics, Mr Prior  
8 made clear that it is not unique. Mr Goemans accepted  
9 that it was not listed but that listing is the normal  
10 way of preserving buildings whose architectural  
11 qualities merit preservation in the public interest.

12 While the LDA accepts that there is a community at  
13 Clays Lane, and one which has been supportive to certain  
14 of its members when they have been in need, it is clear  
15 that the occupants of Clays Lane have a variety of  
16 different views on the worth of any community ethos and  
17 the desirability of maintaining a single community.

18 Thus the Fluid Survey, which is positively endorsed  
19 as a good piece of work by the objectors, identified  
20 that most of the residents interviewed were not  
21 interested in any form of community move at all. That  
22 is 53 per cent or 151 residents: see LDA/AG3,  
23 appendix 4, at pages 2 and 31. 40 were unsure and only  
24 93 said they wanted a group move. The latest figures  
25 from SNU suggest that the number may be up to 124,

1           though since people are keeping their options open, not  
2           all of those who are presently listed will in fact  
3           choose a group move: see Mr Cheyne's appendices, pages  
4           91 to 95.

5           Even within the possible group movers, there are  
6           three different groups. Thus, if everyone were to have  
7           their way, most residents would leave the so-called  
8           community, and those that are left would choose to live  
9           apart in three separate groups. It should not come as  
10          a surprise because it reflects the complexities of human  
11          relationships, but it should sound a note of caution  
12          when claims are made that the community at Clays Lane  
13          should be preserved in the public interest.

14          The weakness of the objectors' position is perhaps  
15          illustrated by my learned friend's continued reliance on  
16          the notional 47 per cent support for a group move from  
17          Fluid, which relies on hypothetical residents who were  
18          not even occupying Clays Lane at the time when the  
19          survey was carried out.

20          Finally on this point, one has to bear in mind that  
21          the separation of this community from others is not  
22          consistent with the Government's sustainable communities  
23          policies (see LDA/REB/38) and indeed the London Borough  
24          of Newham UDP policy UR14 has for some years contained  
25          an aspiration to integrate it better with other



1 communities to be created in Stratford City.

2 So, sir, given their choice of relocation, the  
3 community, as it is called, would fragment.

4 Fourthly, and related to this, the evidence that you  
5 have heard concerning the varied preferences of  
6 individuals and groups demonstrates clearly the inherent  
7 difficulties in achieving a relocation that meets with  
8 universal approval in the present circumstances.

9 This difficulty is recognised by the objectors as  
10 Mr Sandison candidly stated that they -- and that was  
11 the Executive Committee of the Clays Lane Housing  
12 Co-operative -- had identified 56 people in a  
13 co-operative group move, but, and I quote, "There were  
14 57 different ideas of what the ideal housing was and  
15 that for group moves a compromise that would not satisfy  
16 everyone was inevitable". See the transcript at day 36,  
17 pages 68 to 69.

18 His view of compromise being necessary is endorsed  
19 by the evidence of Mr Gaskell. The Secretary of State  
20 will no doubt have this in mind when judging the  
21 objectors' case that a higher standard of relocation  
22 proposal should be demanded from the LDA than what is  
23 currently being offered or considered.

24 Fifthly, it is apparent that this objection has been  
25 dominated by one resident in particular, namely

1 Mr Cheyne. I will address his many and detailed  
2 criticisms below so far as it is considered useful to do  
3 so.

4 The point to be made at the outset is that any  
5 judgment made about the relocation process must not  
6 become polarised by reliance on the detailed criticisms  
7 of one persistent objector. Mr Gaskell noted in his  
8 evidence that early on in the process it became apparent  
9 that consultation events were being hijacked -- those  
10 are his words -- by a few residents making points that  
11 were not relevant to the majority of people and that  
12 only very few voices were being heard. Mr Cheyne's  
13 points cannot be taken to represent a general view held  
14 by others. Indeed, my learned friend said in his  
15 closing that Mr Cheyne was acting in an unofficial  
16 representative capacity, whatever that means.

17 The Inquiry has heard no evidence to suggest that he  
18 has any mandate to speak on behalf of other residents.  
19 The voluminous, forceful, highly critical and one might  
20 add defiant tone of his objections are in stark contrast  
21 to anything else that the Inquiry has seen from any  
22 other resident at Clays Lane, the majority of whom, it  
23 will be noted, have not objected at all.

24 Finally, whatever criticism may be made of the  
25 relocation process by the objectors, the bottom line is

1           that there is adequate housing supply to accommodate all  
2           of those who would be displaced by the CPO. So the  
3           arguments concerning the retention of the Clays Lane  
4           Housing Estate and the adequacy of the relocation  
5           process cannot credibly be underpinned by a submission  
6           that residents will be made homeless if the CPO is  
7           confirmed. That simply will not happen.

8           Mr Rodger's evidence to the contrary was based on  
9           broad generalisations concerning vulnerable tenants. He  
10          had made no enquiries as to the position of any tenants  
11          currently at Clays Lane and was entirely ignorant of the  
12          assessment and support that Mr Gaskell has explained has  
13          been put in place to safeguard the interests of  
14          vulnerable tenants and ensure that they are relocated  
15          within the context of a support package that meets their  
16          needs.

17          These are matters which those who work in the social  
18          rented sector, such as CBHA and Peabody, are well  
19          familiar with. There is every reason to expect that the  
20          24 or so vulnerable tenants that have been identified  
21          will be relocated sensitively and in accordance with  
22          their needs. Their cases have been prioritised, and  
23          rightly so: see the draft housing policy at page 86 of  
24          Mr Cheyne' appendices.

25          I turn now to deal with the detailed objection and

1 the LDA's response to it, adopting the issues set out by  
2 Mr Goemans in his proof of evidence. It will be  
3 recalled from the responses that he gave in his  
4 cross-examination that so far as his evidence was  
5 concerned it proceeded on the basis of a balance between  
6 competing public interests; the public interest in  
7 favour of the use of the Clays Lane Housing Estate for  
8 the Olympics and Legacy, on the one hand, and the public  
9 interest in keeping Clays Lane on the other.

10 Of course it is accepted by the LDA that the  
11 Secretary of State will want to satisfy himself that the  
12 public interest in favour of the CPO outweighs any  
13 private loss and in doing so provides a justification  
14 for interference with Convention rights: see paragraph  
15 19 of the circular.

16 Sir, I turn to objectors' issue 1, which is whether  
17 the LDA has advanced sufficient evidence to show that  
18 proper attention has been paid to consideration of  
19 alternative sites for Olympic facilities that are  
20 proposed to be located at the Clays Lane Housing Estate  
21 and the option of the retention of the community within  
22 the Olympic Games and Legacy masterplan.

23 Mr Prior's evidence -- and this is LDA/JP1, REB12  
24 and REB38, and LDA 14 -- are the principal sources of  
25 evidence that address this issue, supported by the

1 evidence of Lord Coe given on day 3 of the Inquiry.

2           Importantly, it is agreed that the objector --  
3 Mr Goemans' cross-examination -- that Mr Prior's written  
4 evidence and LDA 14 clearly set out the criteria and  
5 considerations that have been applied in designing the  
6 Olympic Park and the Legacy development, and that all of  
7 those considerations are relevant and appropriate. This  
8 effectively undermines the objectors' allegation that  
9 the LDA has failed to demonstrate clear criteria against  
10 which the process of need for this site can be  
11 achieved -- see Mr Goemans, paragraph 4.67.

12           In reality, the objectors' case has a narrow  
13 compass. It is confined to making suggestions of  
14 possible alternatives for the relocation of the Olympic  
15 Village and the retention of the Clays Lane Housing  
16 Estate that it is claimed the LDA should have fully  
17 assessed but has not fully assessed. Mr Goemans thus  
18 confirmed that he advanced no firm proposal as to how  
19 and where the Olympic Village could satisfactorily be  
20 accommodated if the CPO were confirmed with the  
21 exclusion of plot 351, which is the Clays Lane plot.

22           The totality of the evidence clearly shows why  
23 Clays Lane is needed and that alternative locations for  
24 the Olympic Village away from Clays Lane have been  
25 adequately considered. Two possible alternatives for

1 the athletes' village suggested by Mr Goemans were the  
2 whole of the Stratford City site and land on the RTZ  
3 site at West Ham.

4 The possibility of locating the entire athletes'  
5 village on Stratford City was addressed as part of  
6 the January 2006 revisions to the masterplan, and  
7 relevant extracts to the background reports have been  
8 appended to Mr Prior's rebuttal to Mr Cheyne and the  
9 design process explained by him: see LDA/REB12.

10 The matter is further taken up in Mr Prior's  
11 response to Mr Goemans; that is REB39. As Mr Prior's  
12 evidence makes clear, the option of increasing the  
13 height at which athletes could be accommodated to above  
14 eight storeys was put to the IOC and a limited  
15 concession granted. The relocation to Stratford City of  
16 some of the residential accommodation previously on  
17 Clays Lane makes use of this increase in permitted  
18 height for the athletes' village. It does not result in  
19 any increase in height or change to the permitted  
20 Stratford City scheme.

21 For the purposes of securing an appropriate legacy  
22 development, it was not considered appropriate to  
23 increase the densities or change the design of the urban  
24 Village at the northern part of Stratford City, these  
25 matters having been determined after a lengthy process

1 of design and discussion with the planning authority.  
2 In any event, the option for locating the athletes'  
3 village entirely on Stratford City was considered and  
4 rejected, but even if it had been accepted, it still  
5 envisaged the acquisition of the Clays Lane site for  
6 back-of-house and other facilities: see LDA/REB12,  
7 appendix 3 and plan 4.

8 The possibility of the West Ham site as a location  
9 for the athletes' village was addressed by Mr Prior and  
10 he said that it had been looked at very seriously but  
11 rejected: See transcript day 39, page 176, lines 2 to  
12 8. He explained two points: transcript page 172 and  
13 following.

14 First, it would be a very poor location in terms of  
15 its relationship with the Olympic Park, with poor  
16 transport links in terms of road-based transport to the  
17 Olympic Park. While it has rail, the athletes and  
18 Olympic family cannot be moved by rail. It is not  
19 secure enough. Public transport for athletes is not an  
20 option. The Greenway would not serve as a satisfactory  
21 link because of the loading restrictions due to  
22 Victorian pipes and tunnels.

23 Mr Prior's second point can be divided into two  
24 subpoints. One is that there is insufficient space, you  
25 would have to cram it full of residential development

1 without having sufficient back-of-house space. The  
2 other point is that West Ham is a major opportunity site  
3 for regeneration and if you try to cram the athletes'  
4 village in there, you would need all the space for  
5 residential development and would lose the ability to  
6 deliver town centre functions.

7 Sir, it is simply not true, as has been alleged by  
8 the objectors, that Mr Prior's evidence does not  
9 condescend to the detail of the Clays Lane site: see the  
10 rebuttal evidence of Mr Prior to Mr Cheyne. The  
11 evidence goes far beyond table 5.6.

12 The high point of the objectors' case appears to  
13 rest on the allegation that there should be a clear  
14 paper trail setting out a reasoned assessment that  
15 demonstrates how avoiding compulsory purchase of the  
16 Clays Lane site was considered at every stage of the  
17 design process; more particularly, that the paper trail  
18 should demonstrate that the objectors' suggested  
19 possible alternative solutions were fully addressed  
20 during the design process.

21 The LDA does not accept that it is saddled with such  
22 an unrealistic and unworkable burden. There are  
23 a number of points to be made.

24 Firstly, the circular makes it clear that the  
25 Secretary of State will take a balanced view and that



1 each case will be considered on its merits, but  
2 expressly advises that nothing in the general guidance  
3 in part 1 of the circular is to be read as implying that  
4 the Secretary of State will require any particular  
5 degree of justification for an order: see paragraph 18  
6 of the circular.

7 Secondly, and this is the application of that  
8 guidance to the circumstances of this case, Mr Prior  
9 explained the scheme being promoted is not in the nature  
10 of, say, a hospital development project of the kind that  
11 Mr Goemans drew a comparison with. There is a complex  
12 interaction between the elements that must go into the  
13 Olympic Park, which is guided by the design  
14 requirements, with which Mr Goemans takes no issue. The  
15 pieces of the jigsaw can be moved to some extent but the  
16 overall picture that they produce must always remain the  
17 same. In that context, there are inevitably a limited  
18 number of sensible options for moving the Olympic  
19 Village. Those options have been considered and  
20 addressed in evidence.

21 Thirdly, the implications of the objectors' case are  
22 that at every design review, the particular  
23 circumstances of each plot needed to be reconsidered in  
24 detail and a detailed, fully recorded assessment be  
25 carried out. No CPO for a project of any size or

1 complexity would ever be promoted, let alone confirmed,  
2 if this was the burden placed upon an acquiring  
3 authority.

4 Further, where during the design process  
5 a particular solution or a conclusion becomes completely  
6 obvious, one cannot reasonably expect repeated reopening  
7 of those conclusions. The designers have to move on;  
8 otherwise progress would never be made. What needs to  
9 be shown, and has been shown, is that the design process  
10 sought to minimise the need to compulsorily purchase  
11 land, and that, when the location of particular  
12 facilities was being considered, the need for those  
13 facilities to be located on the land that would require  
14 compulsory acquisition was examined.

15 Fourthly, it is rightly accepted by Mr Goemans in  
16 his cross-examination that the question relevant to  
17 confirmation is not whether the LDA has struck the right  
18 balance, though it submits it has, but whether the  
19 Secretary of State should find that there is  
20 a compelling case. The Secretary of State has before  
21 him evidence both contemporaneous to the design  
22 considerations and evidence produced for the purposes of  
23 the Inquiry that seek to justify the decisions in the  
24 light of objections. It is the totality of the evidence  
25 that must be considered.

1           It is unrealistic to expect an acquiring authority  
2           to have considered at every design stage every objection  
3           that it may eventually face. As it happens, in this  
4           case, alternative locations for the Olympic Village away  
5           from Clays Lane were considered, and rejected, for  
6           reasons that have been set out in the contemporaneous  
7           documents, but to the extent that the objectors suggest  
8           that justification is only now being provided, that is  
9           simply because it is only now that the LDA has the  
10          objection before it to respond to.

11          Finally, much was made in cross-examination of  
12          Mr Prior's frank acceptance that at the time the  
13          planning permission was granted he was not aware of what  
14          was described by Mr Wald as a difference in the test to  
15          be applied to justify a grant of planning permission and  
16          the confirmation of the CPO.

17          On analysis, this is a hollow forensic point. The  
18          facts of the matter are:

19                 (a) the grant of planning permission was an  
20                 endorsement of the masterplan layout which had been  
21                 submitted with the application showing the athletes'  
22                 village where Clays Lane is now. Had those permissions  
23                 not been obtained, no doubt Mr Wald would have been  
24                 contending that the Order should not be confirmed  
25                 because there was an impediment to implementation.

1           (b) Mr Prior and his team did not stop there and  
2           cease to examine the need to use the site at Clays Lane.  
3           Mr Prior explained that he was fully aware of the  
4           relevant test for confirmation of a CPO when preparing  
5           his evidence for this Inquiry, and that in the light of  
6           that test he was satisfied that the design process and  
7           solution arrived at was correct. It is apparent from  
8           the evidence that while the objective to provide for as  
9           many sports as possible and the athletes' village within  
10          the Olympic Park was fundamental, the need to minimise  
11          the compulsory acquisition of land was central to the  
12          design review. So the point leads nowhere so far as the  
13          objectors' case is concerned.

14          Sir, it will be recalled that Mr Goemans in his  
15          conclusions at paragraph 6.3 in fact agreed with this  
16          view; that is to say, that a compelling case could be  
17          made. His evidence at paragraph 6.3 is worth repeating  
18          and I will read it out:

19          "In relation to the location of the Olympic Village,  
20          I consider that on a balance of probability, the LDA  
21          will, for operational and other reasons, notwithstanding  
22          the regeneration merits of other options be able to  
23          demonstrate that there is a compelling case in the  
24          public interest for this site to be acquired by  
25          compulsion when this is considered against the wider

1 benefits of regeneration."

2 That this was still his conclusion when giving his  
3 evidence-in-chief was confirmed by Mr Goemans at the  
4 request of his counsel and he read paragraph 6.3 out at  
5 the conclusion of his evidence-in-chief without  
6 clarification or comment.

7 His proof had, of course, been submitted to the  
8 Inquiry some time earlier and Mr Goemans has been in  
9 attendance throughout the formal Inquiry session. He  
10 therefore had ample opportunity to correct his evidence  
11 if it contained any genuine error.

12 That Mr Goemans should retract this statement of his  
13 conclusions under cross-examination is quite remarkable.  
14 It is the only statement in his proof that sets out any  
15 conclusion on whether he considered there to be  
16 a compelling case in the public interest or not.

17 He accepted that it expressed a balanced view, since  
18 it took into account regeneration merits of other  
19 options. He also accepted that it fitted in with the  
20 paragraph of his conclusions that followed; that is the  
21 "however" in paragraph 6.4.

22 His explanation that it was from an earlier version  
23 of his proof, where he had been speculating on possible  
24 outcomes, is fraught with difficulties. Quite apart  
25 from the difficulty in describing a clearly expressed

1 conclusion as speculation it simply makes no sense for  
2 him to have written a clear conclusion adverse to his  
3 clients' case without having carefully considered the  
4 evidence. Reference in re-examination to the chronology  
5 of his instruction and the drafting of the statement of  
6 case only adds to the confusion since one assumes his  
7 proof would have been drafted after the statement of  
8 case was produced rather than in the three days between  
9 his instruction and the submission of the statement of  
10 case.

11 The LDA therefore invites you to attach little  
12 weight to the evidence of Mr Goemans, since the  
13 reliability of his conclusions must be open to serious  
14 doubt. Even if a benevolent view were taken of  
15 Mr Goemans' evidence, his explanation for paragraph 6.3  
16 invites the inference that the objectors' professional  
17 witness does not regard the merits of their objection as  
18 being clear cut.

19 Of course, the implications of the objectors' case  
20 need to be considered. They accept the need for the  
21 athletes' village. They accept the criteria which must  
22 govern the design of the Park and the Legacy. They  
23 accept the need for regeneration and they accept that  
24 the Olympics and Legacy will deliver comprehensive  
25 regeneration. Yet they invite the Secretary of State to

1           exclude the Clays Lane Housing Estate from the CPO  
2           without any proposal, either from the residents or their  
3           representatives, as to how and where the athletes'  
4           village could be successfully accommodated.

5           It may be said that the residents have had little  
6           time to come up with an alternative. It is true that  
7           Mr Goemans was instructed recently. But there are  
8           a number of points about this.

9           First, a number of residents, including Mr Cheyne,  
10          have an intimate knowledge of this area and this matter  
11          and would no doubt have fed points for consideration to  
12          Mr Goemans.

13          Secondly, the Inquiry has been working to  
14          a timetable requested by the residents themselves in the  
15          knowledge of the task that they were embarking upon.

16          Thirdly, Mr Goemans was not, in a manner of  
17          speaking, starting with a clean sheet of paper. In  
18          addition to the LDA's evidence produced for the Inquiry  
19          he has been given access to the EDAW team and could have  
20          asked whatever questions he thought appropriate to audit  
21          the relevant parts of EDAW's work. As a professional  
22          and an expert he would no doubt have declined his  
23          instructions if he thought he could not do a responsible  
24          job in the time available.

25          In the LDA's submission it is not surprising that he

1 has come up with no alternatives that EDAW has not  
2 already studied. That is because the evidence clearly  
3 establishes that EDAW has done its work thoroughly.

4 The Secretary of State is therefore being asked by  
5 the residents to choose between, on the one hand,  
6 delivery of the regeneration benefits claimed by the  
7 LDA, and on the other complete uncertainty as to how the  
8 Games and Legacy might proceed. The importance of  
9 a properly located athletes' village cannot be  
10 overestimated.

11 The Secretary of State will have in mind the  
12 evidence of Lord Coe presented in his proof and orally.  
13 In response to questions from Mr Cheyne about whether  
14 the Park could have been reconfigured so as to save  
15 Clays Lane, he said that if that had been done -- and  
16 I quote -- "We would not have had an Olympic Park and we  
17 would not be sitting in this room discussing this issues  
18 today because we would not have won"; that is to say we  
19 would not have won the bid. This is the transcript on  
20 day 3, page 147. The public interest is clearly in  
21 favour of the CPO including the Clays Lane Housing  
22 Estate site.

23 I turn now to issue 2, whether sufficient  
24 consideration has been given to the impact of the  
25 proposed CPO on the residents' occupation on the land



1 and the loss of a community of unique character and  
2 social importance, and whether in the event of a CPO  
3 satisfactory alternatives are being made available for  
4 the residents' occupation.

5 There are at least three issues embedded in  
6 Mr Goemans's issue 2. First, the extent to which  
7 Clays Lane is a community of unique character and social  
8 importance; secondly, whether proper consideration has  
9 been given to the impact of the CPO on this and the  
10 resident's occupation of the land; third, whether  
11 satisfactory alternatives are being made available for  
12 the residents' occupation in the event of the CPO.

13 This last point overlaps with matters relevant to  
14 the objectors' criticism of the relocation generally.

15 I have already made some submissions about the  
16 extent of the community on the Clays Lane Housing  
17 Estate, and I will not repeat them again although they  
18 are relevant to this part of the objectors' case.

19 As Mr Prior stated, the LDA recognises that the  
20 community is felt to be unique and special to at least  
21 some of those that live there. That, of course, is not  
22 the uniqueness that is relevant. The objectors' case  
23 rests on their being some special uniqueness in  
24 Clays Lane that warrants protection in the public  
25 interest.

1           It is important, when looking at uniqueness, to  
2 place the Clays Lane Housing Estate in its present  
3 rather than its historic context.

4           Sir, you may have noticed, as I did, that the Fluid  
5 response of Mr Cheyne, this is Mr Cheyne's document  
6 248/1/40, tab 11, page 325, at the foot of the page,  
7 records the expression, "co-op nostalgia". Sir, one may  
8 reflect, given the troubled history of the co-op, the  
9 extent to which some residents may have succumbed to  
10 that sentiment.

11  
12           Sir, the objectors called Mr Rodgers to give  
13 evidence on this aspect of their case as someone  
14 experienced in the running of co-operative housing. His  
15 evidence is instructive. He said nothing in his written  
16 or oral evidence to suggest there was anything unique  
17 about Clays Lane until it came to his re-examination.  
18 Even there he confirmed that, and I quote, "It is not  
19 absolutely unique. There are others that are fairly  
20 similar". Transcript, day 37, page 16. On further  
21 cross-examination he confirmed that his evidence on  
22 uniqueness related to, and I quote, "A type of  
23 accommodation that is designed for single people and is  
24 managed co-operatively, yes, and that is rare, yes".

25           It is therefore clear that Mr Rodgers' evidence

1 relates to Clays Lane as it used to be, not as it is  
2 now. The evidence could not be clearer. Moreover, he  
3 confirmed in cross-examination that if there was no  
4 ongoing involvement of the community in the management  
5 of the estate, and I quote, "There is a lot of  
6 research", that shows that the social capital he  
7 referred to as existing on the estate will gradually  
8 erode. That is not surprising, because the formal  
9 structures, processes and obligations that existed to  
10 perpetuate the co-operative ethos no longer apply to  
11 Clays Lane. See transcript day 37, pages 7 to 8.

12 What one is left with, on the objectors' own  
13 evidence, is the clear picture that if excluded from the  
14 CPO, those qualities of the community at Clays Lane that  
15 the objectors value would be lost. The submission that  
16 the co-operative ethos can survive the removal of the  
17 co-op from the management of the estate has no force.  
18 It is not supported by Mr Rodgers' evidence.

19 Ironically, therefore, the only prospect of  
20 recreating some form of group governance for those who  
21 want it is through the relocation proposals that the LDA  
22 is promoting as part of the CPO process. It is no doubt  
23 for that reason that Mr Rodgers accepted that the  
24 introduction of some form of tenant managed system as  
25 part of a relocation proposal would be, and I quote,

1 "A significant benefit". See transcript day 37,  
2 page 10.

3 This plainly has consequences for the other two  
4 questions that fall within Mr Goemans' issue 2 because  
5 it demonstrates that the issue is really founded on  
6 a false premise once the evidence of Mr Rodgers is  
7 considered. Sir, you will recall that my learned friend  
8 said in closing that at the heart of the objection is  
9 the loss of the community. Sir, it is the loss of that  
10 community that Mr Rodgers has confirmed will take place  
11 if Clays Lane is excluded from the CPO. That is the  
12 thrust of his evidence.

13 Turning now to the second question raised under this  
14 issue: it is evident from the surveys that have been  
15 undertaken, the meetings that have taken place and the  
16 opportunities that have been and are being given to  
17 residents to seek advice and raise concerns that the  
18 impacts of their relocation are being properly  
19 considered.

20 The objectors seek to elevate their case by arguing  
21 that what is missing from the LDA's reasoning is an  
22 assessment that balances the need for the acquisition of  
23 the Clays Lane Housing Estate land with the impact of  
24 that acquisition. There are three short answers to that  
25 submission. First, it is fanciful to suggest that the

1 LDA has not considered the impacts of the CPO on the  
2 Clays Lane Housing Estate and those who live there when  
3 considering whether CPO of the land is justified.  
4 Mr Prior's evidence demonstrates that this was not  
5 overlooked.

6 Secondly, as already explained, this is not a case  
7 where there are a number of acceptable options, some of  
8 which involve the CPO of Clays Lane and some of which do  
9 not. The site is needed, and therefore the choice is  
10 between acquisition of the land and the delivery of the  
11 Olympics and legacy or, on the evidence before this  
12 Inquiry, the failure of the scheme and no legacy  
13 benefits.

14 Thirdly and most importantly, the objectors accept  
15 through Mr Goemans that it is for the Secretary of State  
16 to consider how the balance should be struck, whatever  
17 criticisms may be made of the LDA. It is also accepted  
18 that through this objection, the Inquiry has before it  
19 the relevant material about impacts on the residents  
20 that it is necessary to have to strike a proper balance,  
21 and we ask that this be expressly reported. So the  
22 Secretary of State can properly reach his own view even  
23 if, which is not accepted, there were any force in the  
24 objectors' criticisms.

25 I turn now to alternative accommodation. It is not

1 clear how this part of the objectors' case under issue 2  
2 relates to their case under issues 3 and 4, which come  
3 under the heading "relocation issues". The latter are  
4 premised on the CPO being justified and confirmed, while  
5 issue 2 is not. I will address the question of  
6 alternative accommodation under issue 2 in the context  
7 of the objectors' case on the importance of the  
8 community, since that appears to be the context.

9 Other relocation matters are dealt with below. To  
10 the extent that the objector considers that matters that  
11 I will deal with under issues 3 and 4 are also relevant  
12 under issue 2, they should be taken as applying to issue  
13 2 as well.

14 The question is whether satisfactory alternatives  
15 are being made available to residents. So far as any  
16 value in the community arising from the co-operative  
17 ethos is concerned, it has already been noted that the  
18 provision of one or more group moves together with  
19 a tenant managed system will provide a significant  
20 benefit on the objectors' own evidence. It would result  
21 in an improvement on the residents' current position in  
22 that respect. It would safeguard from inevitable  
23 decline the social capital valued by the objectors.

24 In respect of both group and non-group movers, the  
25 offer of self-contained flats would also be an

1 improvement for the vast majority of Clays Lane  
2 residents who live in substandard shared housing. The  
3 objectors' evidence has explained that most residents  
4 feared being relocated to bedsits, and the Fluid Survey  
5 confirmed that most residents wanted to be relocated to  
6 a self-contained flat: 84.2 per cent or 246 responses;  
7 LDA/AG/3, appendix 4, page 33. So this is another  
8 benefit of the relocation.

9 Mr Goemans confirmed in his cross-examination that  
10 his objection was very largely one of timing. Day 39 of  
11 the transcript, page 137. The LDA should, in his view,  
12 have set about the provision of property group moves  
13 three years before the date for vacant possession, that  
14 is to say July 2004, a year before the bid was won. So  
15 properly understood, the complaint is not about failing  
16 to meet time lines in Fluid, but that work should have  
17 started well before the time envisaged in Fluid for the  
18 approval of the relocation strategy.

19 In any event, on the evidence before the Inquiry,  
20 one of the options at least for group moves, the Nag's  
21 Head estate, would be available before July 2007, while  
22 Mr Cheyne has brought to the attention of the Inquiry  
23 a number of other possible sites: see his pages 102 to  
24 104 in his bound evidence. Mr Cheyne himself recognised  
25 as essential the need for further survey work on group

1 moves following the Fluid Survey; that is the Cheyne  
2 e-mail 248/1/52, appendices tab 6, page 172,  
3 paragraph 4; while he did complain about delay.

4 The survey work has now been done by SNU. It is  
5 acknowledged by the LDA that a double decant will be  
6 needed to accommodate residents in any scheme that  
7 allows them to have an input on design since of  
8 necessity, it has yet to be built. That may be an  
9 inconvenience that those who wish to pursue this route  
10 will have to endure. The LDA has confirmed before the  
11 Inquiry that it will meet the reasonable relocation cost  
12 of a resident arising from a double decant.

13 Sir, in conclusion, the LDA's submission is that  
14 sufficient consideration has been given by the LDA to  
15 impacts on Clays Lane, and that suitable accommodation,  
16 alternative accommodation, is being put forward and made  
17 available to residents.

18 Mr Goemans' issue 3, whether sufficient  
19 consideration has been given to the type and character  
20 of the housing in the Clays Lane Housing Estate when  
21 considering the options for the relocation of residents,  
22 and I will deal with the main criticisms of the  
23 relocation process under this heading so far as it is  
24 considered relevant to do so.

25 Turning to the headline point set out in the issue



1 identified by Mr Goemans, the type and character of the  
2 existing housing has been fully assessed through the  
3 following in particular: one, the Fluid Report. This  
4 gave a physical description of the accommodation at  
5 Clays Lane, recognising particular qualities of physical  
6 and social environment valued by residents: LDA/AG/3  
7 generally, and note pages 5 and 47 to 53. It looked at  
8 residents' locational requirements for new accommodation  
9 and their qualitative preferences: pages 36 and 42 of  
10 Fluid. The Fluid Survey is accepted as a good piece of  
11 work by the objectors.

12 Secondly, reports have been taken into account on  
13 the condition of the property: Mr Gaskell's appendices  
14 to LDA/REB/39. It is common ground between the parties  
15 that the current accommodation fails to meet Decent  
16 Homes Standards.

17 Thirdly, those involved in the relocation process --  
18 the LDA, in particular Mr Gaskell and Mr Cahill, SNU and  
19 the CBHA -- are obviously well acquainted with  
20 Clays Lane Housing Estate through their work. This  
21 information obviously feeds into the relocation process,  
22 but of course it is not the LDA's role or obligation to  
23 reproduce Clays Lane on another site. What it is  
24 seeking to do is to meet the relocation needs and  
25 aspirations of residents. As the Fluid and other

1 surveys demonstrate, those needs and aspirations cannot  
2 be met through the reproduction of Clays Lane. That is  
3 because, for example, the vast majority of residents  
4 want self-contained flats. And, again, there is no  
5 support whatsoever for a group move that would justify  
6 development of a co-operative housing scheme on the  
7 scale of the Clays Lane Estate. So inevitably,  
8 something different has to be considered for the  
9 relocation of individuals and groups, and judgments have  
10 to be made.

11 In this context, we come to Mr Winterbottom's letter  
12 of June 2004. He stated that the LDA would rehouse  
13 residents in, and I quote, "Suitable accommodation that  
14 reflects your individual needs and is at least as good  
15 as if not better than your existing accommodation". He  
16 gave no explanation as to what that meant, but any  
17 rational reader would recognise at once that judgments  
18 have to be made about what reflects individual needs and  
19 what is "good" and what is "better". It is therefore  
20 not surprising that the LDA's approach should be  
21 clarified through statements made just a few months  
22 later, notably in the Fluid Report.

23 Mr Sandison accepted that from July 2005, residents  
24 knew that the LDA had clarified its statement as set out  
25 in the summary Fluid Report of January. Transcript day

1           36, page 70. He also conceded that the statement in  
2           Fluid, that accommodation would be at least as good as  
3           residents currently have "as far as reasonably  
4           practicable", was, and I quote his evidence,  
5           "A reduction of what was implicit in the Winterbottom  
6           letter", and that neither he nor anyone else on the  
7           estate would disagree that it is fair only to expect the  
8           LDA to do what it is practicable to do. Transcript day  
9           36, pages 71 to 72. He might have excluded Mr Cheyne  
10          from that answer. It is notable that he read the  
11          Winterbottom statement as really only applying to those  
12          who are currently located in shared accommodation,  
13          transcript page 73, among whom there was a fear of  
14          relocation to bedsits and a desire for individual flats.

15                 It is now said in closing by my learned friend that  
16          the statement also encapsulated a promise that the rents  
17          would be the same. It says nothing about rents at all.  
18          It is talking about the quality of accommodation.

19                 What the LDA is being criticised for doing is making  
20          a statement which it recognised needed some  
21          clarification, and then clarifying it. That is not  
22          a fair criticism.

23                 Against all of this evidence, Mr Cheyne's dogged  
24          insistence that the LDA's efforts be judged in effect  
25          against his own conception of what is "as good as or

1 better" simply cannot stand. His decision to wilfully  
2 ignore the clarification given over 18 months ago  
3 demonstrates a lack of balance and fairness on his part.  
4 It is not that the LDA is not trying to meet people's  
5 needs and appropriate accommodation; it is. But it  
6 cannot be fairly judged against a subjective benchmark  
7 that ignores what is practicable.

8 Even Mr Sole, who wants Clays Lane to be replicated,  
9 was fair enough to concede that his own desire arose  
10 from his own definition of equivalency, transcript day  
11 36, pages 127 to 128, rather than a statement made by  
12 the LDA.

13 What the evidence of all three witnesses also  
14 demonstrates is that although reliance is placed on the  
15 Winterbottom statement by these objectors, each witness  
16 who gave evidence had interpreted it in a different way.  
17 That demonstrates the point the LDA makes: that  
18 judgments have to be made.

19 In any event, for the reasons already given and  
20 those explained in evidence, the relocation will secure  
21 benefits for all residents, both individuals and those  
22 who move as part of a group, in the LDA's view.

23 The question of affordability of rents has also been  
24 raised. The LDA has always accepted that there are  
25 likely to be modest increases in rents on average. No

1 evidence has been adduced to support a submission that  
2 the increase in rents will not be affordable, since no  
3 resident has provided any evidence as to their means or  
4 outgoings.

5 The errors in Mr Hammoud's analysis that resulted in  
6 him overestimating the relocation rent and  
7 underestimating the likely rental levels if Clays Lane  
8 were to remain were explored in cross-examination.  
9 Transcript day 36, pages 171 to 203. The evidence of  
10 Mr Gaskell is obviously to be preferred since: (1), it  
11 uses as a starting point for the relocation average  
12 rents taken from one-bed flats actually available in  
13 Newham in the social sector; (2), it recognises that  
14 convergent rather than target rents will be charged at  
15 relocation properties; (3), it takes a more realistic  
16 figure for services, electricity and water and so on,  
17 than Mr Hammoud, that is to say a low figure advertised  
18 on the net that would be available to residents, rather  
19 than the higher figure used by Mr Hammoud; (4),  
20 Mr Gaskell recognises that Clays Lane is subject to the  
21 convergent rent regime.

22 Related to this topic is the question of information  
23 that has been provided on rental levels. The flyers  
24 that have been produced and the extracts from East  
25 London lettings show that each property is publicised

1 together with the rent charged. The LDA in  
2 November 2005 agreed to look into rental levels in East  
3 London and commissioned the Tribal report that was  
4 handed to SNU and to Clays Lane On The Move. It  
5 addressed the question of compensation in rents, and the  
6 report gave rise to the Compensation Working Group that  
7 includes tenants.

8 The Tribal work also informed SNU's paper on rental  
9 levels which Mr Gaskell has responded to. The SNU paper  
10 and Mr Gaskell's response were produced by the residents  
11 themselves in evidence before this Inquiry.

12 Although it has been suggested that some tenants who  
13 have relocated are unhappy with their new accommodation,  
14 the evidence does not support that submission.

15 Mr Sandison declared that his neighbour was, I quote,  
16 "Delighted with the accommodation he has received". The  
17 objectors have placed reliance on the anecdotal evidence  
18 of Mr Cheyne at paragraph 57.5, but it is not at all  
19 clear the extent to which that refers to properties  
20 inspected or properties accepted, and Mr Gaskell  
21 explained in his evidence today that properties which  
22 people have been relocated to have been chosen by them  
23 freely, and if there are issues to do with dampness or  
24 services, those can be dealt with through the normal  
25 systems of maintenance that exists and rights that exist

1           between tenant and landlord.

2           The bottom line is that everyone being relocated at  
3           present does so by choice, and therefore it is up to  
4           them whether they decide to move into the property in  
5           question and pay the rent charged or not. Many have  
6           chosen to do so.

7           There are many more detailed criticisms that the  
8           objectors, or more particularly Mr Cheyne, have made.  
9           You have evidence from the LDA addressing these, and  
10          I say no more about them. What perhaps is more  
11          important is not what Mr Cheyne regards as past failings  
12          of the LDA, but how the system of relocation is in fact  
13          operating, and how it looks set to work in the future.  
14          In particular, you will recall the evidence from  
15          Mr Gaskell that prioritisation with Newham has now been  
16          secured, which will assist those who want to relocate  
17          within Newham and outside the borough.

18          I now turn to Mr Goemans' issue 4, whether in the  
19          light of a proper consideration of the residents'  
20          requirements, more appropriate alternatives should be  
21          made for the residents' occupation, in accordance with  
22          the relevant condition of the planning permission.

23          As Mr Goemans acknowledged, the LDA is not in breach  
24          of the planning condition relating to relocation, since  
25          it is a Grampian condition which can be discharged at

1 any time before the commencement of work. However,  
2 I will address the issues arising in relation to the  
3 relocation strategy generally.

4 First, it is not the role of a local planning  
5 authority to supervise in detail the manner in which an  
6 acquiring authority exercises its powers. As Mr Jones  
7 explained, the function of this condition was to ensure  
8 that a mechanism for addressing the issues was put in  
9 place, rather than providing specific solutions to  
10 individual residents. Sir, I refer you also to  
11 Mr Gaskell's evidence on how the LDA envisaged the  
12 relocation strategy under the planning condition could  
13 operate.

14 Second, ironically the LDA could have complied with  
15 the condition by getting a strategy approved, but failed  
16 to get to grips with the detailed implementation which  
17 would then have been beyond enforcement action. In  
18 fact, what they have done is to act responsibly having  
19 regard to the timescale, and gone into the detail in  
20 parallel with devising the formal strategy under the  
21 condition.

22 Third, neither the planning condition nor the  
23 relevant development specification framework place any  
24 obligation on the LDA to accommodate group moves or  
25 provide like-for-like accommodation. See LDA/REB/13,



1 appendix 3, pages 2 and 11. Indeed the Clays Lane  
2 Housing Co-operative sought an amendment to the  
3 condition on the planning permission relating to the  
4 relocation strategies that would have required  
5 accommodation equivalent to Clays Lane to be provided  
6 during the construction of the Games phases and  
7 restoration of the Clays Lane Housing Estate in legacy.  
8 See LDA/AG/3, appendix 4, page 81. The Committee  
9 rejected that request.

10 Fourth, the objectors' case is that the main  
11 objection of the planning authorities to the relocation  
12 strategy was based on inadequate monitoring. On that  
13 basis, there is nothing to suggest that an approved  
14 strategy would have included any greater obligations  
15 than are currently present in the draft, save for the  
16 issue of monitoring. In relation to group moves, and  
17 a desire for tenant management, paragraph 4.3.3 of the  
18 submitted strategy states that the LDA will seek to  
19 accommodate this preference.

20 Fifth, as Mr Gaskell made clear, the LDA did not and  
21 could not wait for an approved relocation strategy under  
22 the planning conditions before starting the process of  
23 relocation. It had always envisaged that the strategy  
24 would be an umbrella document rather than a document  
25 that dealt with individual resident's needs, and the

1 submitted strategy bears that out. Hindsight shows that  
2 the LDA's judgment was sound since JPAT was dealing with  
3 all the strategies together, and the process became held  
4 up in part because of issues on the open space strategy.  
5 Moreover, Newham had an issue concerning nomination  
6 rights in the legacy development that needed to be  
7 resolved, and has only been resolved in the last few  
8 days.

9 Sixth, it has been argued that a meaningful strategy  
10 could only come about with the input of the residents  
11 themselves, but despite considerable publicity given to  
12 the submitted strategy, including the holding of  
13 a drop-in session at the estate, only two written  
14 representations were made on it, one by Mr Cheyne and  
15 the other by Mr Sandison. To suggest, as Mr Goemans  
16 did, that this is because the consultation process was  
17 too formal is to pay a disservice both to the residents  
18 and to the authorities themselves.

19 Finally, Mr Gaskell's evidence has set out the  
20 practical steps that the LDA has taken to inform  
21 residents of the relocation process and to make advice  
22 and information available to them. See Mr Gaskell's  
23 evidence generally and in particular LDA/AG/1, pages 14  
24 to 21; LDA/REB/13, pages 5 to 6 and 12 to 13 dealing  
25 with the ITLA; LDA/REB/39, pages 10 to 11.

1           The Inquiry has also seen examples of newsletters,  
2 minutes of meetings between bodies such as LDA, CBHA,  
3 SNU and Clays Lane On The Move, and other publicly  
4 available documents. There is now a rehousing policy on  
5 which consultation is carried out. The volume of  
6 material provided by Mr Cheyne, the evidence given by  
7 the objectors relating to offers of properties that have  
8 been made and the fact that many relocations have now  
9 taken place is a fair indication that the operation of  
10 the process is understood by residents.

11           The process does not disclose, as suggested by the  
12 objectors in closing, a "worrying disregard" for  
13 Convention rights or impacts on residents. On the  
14 contrary: it demonstrates an intention on the LDA's part  
15 to get on with the practical process of relocating  
16 residents and putting options to them without being held  
17 up by the need to secure an approved residential  
18 relocation strategy through the planning conditions.

19           As to the allegation that more appropriate  
20 relocation options should be made available, the LDA  
21 would submit that the options being made available are  
22 entirely appropriate. I have already dealt with the  
23 nature of what is on offer and the criticisms that have  
24 been made.

25           Sir, finally, then, I come to matters of law insofar

1 as they have been raised. Convention rights, first of  
2 all. The objectors argue that the CPO would result in  
3 an unlawful interference with their Convention rights  
4 under Article 1 of the First Protocol, peaceful  
5 enjoyment of property, and Article 8 of the Convention,  
6 the right to respect the family life in the home.

7 Both rights can be interfered with by a lawful  
8 measure that leads to legitimate aim provided the  
9 interference is proportionate. Since the regeneration  
10 aims of the CPO are legitimate ones for the purposes of  
11 the Convention rights in question, the key issue is  
12 proportionality.

13 The LDA relies on the totality of the evidence in  
14 support of the CPO to justify the interference with the  
15 land at Clays Lane through its compulsory acquisition.  
16 On the basis of that evidence, it considers that the  
17 acquisition is necessary in the public interest to  
18 achieve that aim.

19 Sir, I will add for the record that my learned  
20 friend has confirmed to me that the issue on  
21 affordability of rents and rental levels is not one that  
22 is relied upon in the context of any argument based on  
23 Convention rights.

24 Sir, I turn then to the arguments that have been  
25 raised in closing by my learned friend. Firstly, that

1           there was a legitimate expectation that there would be  
2           a full and transparent process of relocation, including  
3           consultation with residents themselves. That  
4           expectation is said to have arisen on the basis of  
5           Mr Winterbottom's letter of two years ago and the  
6           Mayor's comments.

7           Sir, in response, that is asking rather a lot from  
8           the documents relied upon. Mr Gaskell has given  
9           evidence about the limited weight that appeared to be  
10          being placed by residents on Mr Winterbottom's letter,  
11          and in any event, the statements of the LDA were  
12          clarified as from January 2005. Sir, you will have seen  
13          the Mayor's statements: they are contained in a written  
14          response that was given to the Assembly in response to  
15          questions which were then copied to Mr Cheyne himself.

16          Sir, there has, in my submission, been a full and  
17          transparent process of relocation. That is still  
18          ongoing, and that has included consultation with  
19          residents themselves.

20          Secondly, it is said that the LDA is somehow in  
21          breach of principles applicable to the legal  
22          requirements for consultation. The first of those  
23          principles is that consultation must be at a time when  
24          proposals are still at a formative stage; that is to say  
25          consultation on the proposals in question.

1           Sir, since the residents' objection is that the  
2           strategy has yet to be approved and that there is as yet  
3           no approved strategy, the LDA fails to see how criticism  
4           can be made that any discussion of the strategy or  
5           consultation on it has been carried out at a time when  
6           it is not at a formative stage. On the contrary: what  
7           the objectors are saying is that it should not be still  
8           at a formative stage; it should now be a concluded  
9           strategy. So a breach of the first principle, in my  
10          submission, is inconsistent with the residents' case.

11          The second principle referred to by my learned  
12          friend is not relied upon.

13          The third principle is that adequate time must be  
14          given for consideration and response. That is to say,  
15          time given to those who are being consulted for  
16          consideration and response.

17          Sir, no complaint at all has been made by Mr Cheyne  
18          or anyone else, so far as the LDA can recall from the  
19          evidence, that insufficient time has been given to  
20          respond to the various consultations that have taken  
21          place: that is to say the Fluid, the CBHA consultation,  
22          consultation on the relocation strategy, or consultation  
23          on the rehousing policy. Indeed, we have seen from the  
24          evidence that Mr Cheyne has been well able to put in  
25          what responses he wished to put in to those matters.

1           In relation to consultation on the group move: a lot  
2           of the responses are still in, but you will see that  
3           there are still some people who need to be consulted.  
4           Again, that can hardly support the submission that  
5           somehow insufficient time has been given for  
6           consideration of response by those being asked  
7           questions.

8           Fourthly, the fourth principle is that the product  
9           of consultation must be conscientiously taken into  
10          account in finalising any proposals. Sir, in my  
11          submission, the evidence does clearly show that the LDA  
12          has taken into account conscientiously the results of  
13          Fluid, the results of the SNU survey and the results of  
14          the CBHA work, and indeed any other consultation that  
15          may be relied upon in this respect by my learned friend.  
16          After all, it is the LDA who has overall responsibility  
17          for the relocation process, and it is these consultation  
18          exercises which are informing that.

19          Sir, finally, the last legal submission relied upon  
20          by my learned friend is that the e-mail Cheyne reference  
21          248/1/16 is somehow a direction or guidance issued by  
22          the Mayor to the LDA. Sir, that is a fanciful  
23          submission. The context of the e-mail is, as I have  
24          said, that the Mayor gave written answers, written  
25          responses to questions raised by the Assembly, and gave

1 responses to the Assembly. Those responses were copied  
2 to Mr Cheyne. Sir, not only are these not in the form  
3 of any direction or guidance, but they are not addressed  
4 to the LDA, and therefore, in my submission, that point  
5 made by my learned friend simply cannot get off the  
6 ground.

7 Sir, those are my submissions, unless there is  
8 anything I can help you with.

9 THE CHAIRMAN: Thank you. Mr Wald.

10 MR WALD: Sir, I am well aware that I have no formal right  
11 of reply. I wonder if I could raise one or two  
12 transcript points that have arisen.

13 THE CHAIRMAN: From this or from previous days?

14 MR WALD: No, from the closing submissions. The first is in  
15 relation to Mr Prior's evidence. My learned friend  
16 indicated that Mr Prior had said in evidence that in  
17 preparing his evidence, he had been mindful of the  
18 differences in the tests to be applied when confirming  
19 or not a CPO and the grant of permission. That may be  
20 the case. It is not my recollection. I recall Mr Prior  
21 saying that he was not a planner so he did not really  
22 deal with such matters. But the transcript will plainly  
23 show that, so I would ask you to refer to that.

24 THE CHAIRMAN: So that will be yesterday afternoon.

25 MR WALD: Yesterday afternoon.



1           There is one other transcript point that arose. It  
2           is in relation to Mr Rodgers' evidence, and whether his  
3           evidence amounted to its exclusion from the red line  
4           resulting in the community disappearing. I do not think  
5           that was his oral evidence. It certainly was not his  
6           written evidence and his conclusion. But again, that is  
7           from memory.

8           Sir, this new point about instructions. You are now  
9           aware that a full list of those residents at the  
10          Clays Lane Estate instructing Irwin Mitchell is to be  
11          submitted in the morning. Also, perhaps Mr Goemans is  
12          not privy to those arrangements, but if it would assist  
13          you and my learned friend in understanding how that list  
14          was compiled and what those instructions amount to,  
15          I now have instructions myself that Irwin Mitchell is  
16          perfectly happy to supply a page of explanation that  
17          goes with that list.

18          I raise it now because it seems to me that it is  
19          a new point, the arrangement. It is rather like the  
20          point that we visited in relation to funding, the basis  
21          upon which instructions have been received. I will take  
22          guidance from you, sir, as to whether an explanation  
23          from Irwin Mitchell as to how that list is compiled and  
24          how instructions were received would be useful to  
25          Inquiry.

1 THE CHAIRMAN: That would be an open Inquiry document in the  
2 normal way, I take it?

3 MR WALD: It would be, and clearly if there were any  
4 comments that arise, we would have no objection to the  
5 LDA supplying those comments also to the Inquiry.

6 One final point, sir, and it does not relate to the  
7 substance of the closing submissions. Reference was  
8 made to the questions asked by Mr Cheyne of Lord Coe,  
9 and I just repeat the clarification I made earlier: that  
10 I act on behalf of the collective case. The  
11 non-collective cases continue, and that was made clear.

12 Other than that single reference, questions have not  
13 been put to those members of the collective who also  
14 advance individual cases. But so that the Inquiry has  
15 it with total clarity, none of those cases is abandoned.  
16 And to my knowledge, since the date of the submission of  
17 that evidence, it has not been challenged. I know that  
18 from this Inquiry it has not been challenged.

19 THE CHAIRMAN: Thank you, Mr Wald. Mr Pereira, can we deal  
20 with those in turn? Can I take the two transcript  
21 points, do you want the opportunity of checking those in  
22 any way and making your response?

23 MR PEREIRA: No, sir, I do not think I need the opportunity.  
24 In relation to Mr Rodger's evidence, I have set out the  
25 transcript references there, sir, and what I have said

1 about Mr Rodgers is supported by those references.

2 In relation to Mr Prior, what is in my submissions  
3 is supported by the transcript of yesterday at page 194.

4 I think that deals with those.

5 THE CHAIRMAN: It has been raised; it is there in the  
6 transcript; it is there for me to read. Are you content  
7 that in the light of the comments that have been made by  
8 both of you, I can refer back to the transcript and come  
9 to my own view?

10 MR WALD: Sir, that is all I wanted.

11 THE CHAIRMAN: Thank you. Then, Mr Pereira, in terms of the  
12 point on instructions?

13 MR PEREIRA: Well, sir, I do not accept that it is a new  
14 point in the sense that one always when presenting  
15 a case which is claimed to be a collective case has to  
16 have at the forefront of one's mind that if one claims  
17 to be representing a collective, one needs to have  
18 evidence to that effect, and one needs to set out what  
19 the evidence is between the evidence and the collective  
20 view, so I do not accept it is a new point.

21 It is for my learned friend and his solicitors to  
22 decide how they conduct their case. Formally, as  
23 I understand it, their case is closed, and we have now,  
24 subject to administrative matters, closed this part of  
25 the Inquiry, or are about to close this part of the

1 Inquiry.

2 Sir, it is really I think a matter for you. Of  
3 course the Inquiry is due to close if not tomorrow then  
4 on Friday, and whatever it is that Irwin Mitchell are  
5 planning to produce needs to be produced very urgently,  
6 and it needs to be produced, if it is to be produced, on  
7 the basis that this is not an opportunity for putting in  
8 further evidence from other residents at all.

9 What I understand is being requested is the  
10 opportunity to put in one page that describes how it is  
11 that Irwin Mitchell went about compiling its list of  
12 clients. Sir, it is a matter for you. It is  
13 unfortunate that it is arising now and it was not dealt  
14 with by the residents in evidence. The LDA would want  
15 to respond if something is put in. But I must stress,  
16 sir, and I think it is important, it cannot be used as  
17 an excuse or an opportunity to put in evidence from  
18 other residents themselves. That is simply unacceptable  
19 at this stage.

20 THE CHAIRMAN: I am prepared to accept the narrow request  
21 and the specific request indicated by Mr Wald. I had  
22 previously indicated that I wanted the full list, it  
23 would be very helpful to have a clarification on those  
24 instructions, and on the basis that it has been raised,  
25 I would prefer to have it into the Inquiry before it is

1 closed rather than any additional documentation being  
2 submitted direct to the Secretary of State.

3 We clearly need to set a timetable for that, and I  
4 would be looking for it tomorrow morning, at the  
5 earliest opportunity. Can you indicate --

6 MR WALD: Sir, you have indicated it would be helpful, so we  
7 will produce it. It was not so much as a request, but  
8 it came out of points made in closing.

9 THE CHAIRMAN: Yes.

10 MR WALD: It will not go beyond a page's worth of  
11 explanation of how the existing list of residents is  
12 justified, is explained. It can be supplied by  
13 10 o'clock in the morning tomorrow.

14 THE CHAIRMAN: I will accept it on that basis: that it is to  
15 be submitted by 10 o'clock tomorrow morning, and it  
16 relates to that very narrow issue of understanding the  
17 instructions, and it is accompanied by the full list of  
18 those that form the collective. Thank you.

19 Of course, the LDA will have the opportunity to  
20 respond, and I would invite that response by 5 o'clock  
21 tomorrow afternoon.

22 There was a fourth point in relation to Mr Cheyne's  
23 questions to Lord Coe and indeed the distinction between  
24 the collective case and the individual elements that had  
25 already been submitted to the Inquiry. Is there

1 anything you want to add to that?

2 MR PEREIRA: Only this: that is a distinction that my  
3 learned friend is entitled to draw. It is not of direct  
4 relevance to anything that I said in closing. It has  
5 been agreed all along -- indeed, it was affirmed by my  
6 learned friend I think when he opened his group case --  
7 that the evidence that was already on the transcript  
8 that had arisen in the context of points residents were  
9 making stayed on the transcript and remained to be taken  
10 into account, and that is exactly the position. That is  
11 evidence given by Lord Coe. The transcript is there for  
12 everyone to see, and it was in response to questions  
13 raised by Mr Cheyne, and the LDA relies upon it.

14 THE CHAIRMAN: Thank you.

15 MR WALD: Sir, that is agreed, albeit that it is not limited  
16 to the transcripts. You had some documents submitted,  
17 some evidence produced by individual objectors, so it is  
18 not just transcript evidence.

19 THE CHAIRMAN: No, it is not just the transcripts. As  
20 I indicated previously, it is the documentation that is  
21 within the Inquiry.

22 Mr Pereira, anything further?

23 MR PEREIRA: There is, sir. I am being reminded of  
24 something which I should raise. Sir, you will recall  
25 that when Mr Wald opened his case, there was a bit of an

1 exchange about what was happening with the other  
2 residents' cases and how that was to be dealt with.

3 Sir, you will probably know that there have been  
4 some written responses produced by the LDA, and  
5 obviously those are relied upon. But also, before the  
6 funding was in place, you will recall from the round  
7 table that residents have put in proofs, and that the  
8 LDA have produced rebuttal evidence, and of course that  
9 rebuttal evidence obviously is still relied upon in  
10 relation to the matters that other residents and indeed  
11 some of them here, Mr Cheyne and Mr Sandison, have  
12 raised.

13 THE CHAIRMAN: Yes, it confirms the point that what has been  
14 put into the Inquiry remains in the Inquiry.

15 MR PEREIRA: You have said it in far fewer words than I did,  
16 thank you.

17 THE CHAIRMAN: Thank you. Is there anything further before  
18 I adjourn?

19 MR PEREIRA: Sir, I think this is out of an abundance of  
20 caution, but we are taking it to be the case that those  
21 people who are listed as Irwin Mitchell's clients, it is  
22 through this formal Inquiry process that the LDA has  
23 responded to their objection.

24 Sir, the reason I say that is that some of those  
25 people have put in written representations, and I am

1 instructed that the LDA has not formally replied in  
2 writing to rebut those objections in the way it would  
3 for other residents, the reason being that we take it  
4 that those residents are represented as part of the  
5 Irwin Mitchell group in some way, shape or form, so we  
6 have dealt with whatever evidence has come up here.

7 THE CHAIRMAN: So in whatever form, the LDA's rebuttal is in  
8 the sense of whatever has gone on in the Inquiry, and  
9 also through its other rebuttal proofs, in relation to  
10 individual and group or collective objections.

11 MR PEREIRA: Yes, but what we are not doing is responding  
12 twice: that is to say we are not dealing with it in  
13 formal sessions of the Inquiry and also putting in  
14 written responses.

15 THE CHAIRMAN: Mr Wald, does that raise an issue?

16 MR WALD: Sir, I only cautiously respond because, as I have  
17 made clear, I am not instructed by any of those  
18 individuals.

19 Of course, mere attendance at the Inquiry, at the  
20 formal part of this Inquiry, may not necessarily be  
21 sufficient to rebut the evidence. There are written  
22 rebuttals in some cases; there may be points raised by  
23 individuals that have not been the subject of  
24 a rebuttal, written or at the Inquiry. But I do not go  
25 to the detail of any of that. I just offer it, if it



1           assists, as a matter of procedure.

2   THE CHAIRMAN:   Mr Pereira, anything further?

3   MR PEREIRA:   Well, sir, unless I think the LDA says anything  
4           else to the Inquiry, the position that is being taken is  
5           that if there have been written representations put in  
6           by people who are on the Irwin Mitchell list, the LDA's  
7           formal position is that the evidence that we have put in  
8           to reply to this objection at this Inquiry session, and  
9           the other evidence that has been put in in response to  
10          residents generally, is to be taken as a response to  
11          those written objections.

12   THE CHAIRMAN:   Again, I think it is the point that the  
13          collective material on both sides is before me.

14   MR PEREIRA:   Yes.

15   MR WALD:   Sir, the only issue that arises -- take an  
16          example: Mr Cheyne, for example, has put in objections  
17          individually that deal with the entirety of the CPO.  
18          The collective case is a site-specific objection. It is  
19          for, of course, the LDA to choose how it deals with  
20          objections, and indeed whether it chooses to deal with  
21          them. That will either be in writing, or in oral at the  
22          Inquiry, or at the round table session. If a rebuttal  
23          in relation to a specific issue is not raised in any of  
24          those fora then it remains unrebutted; it is before the  
25          Inquiry and it is untested.

1           As to the detail of that, I cannot assist, because  
2           I have not been concentrating or even involving myself  
3           in non-collective matters, but I suppose theoretically  
4           there is the possibility that there are matters raised  
5           by individuals that remain at this point, and we are at  
6           the point of closure, unrebutted. I do not know.

7   THE CHAIRMAN: As you say, that is not an issue for you, and  
8           as far as I am concerned, it is a matter for the LDA to  
9           decide what evidence they lay before the Inquiry, and  
10          the only matters that I will consider is the material  
11          that I have presented to me before the closure of the  
12          Inquiry on Friday.

13                 Nothing further? Thank you.

14                 Well, that brings us to the end of this afternoon's  
15          session. I would like to thank all of the participants  
16          over the last four days, Mr Wald and Mr Pereira for  
17          leading the evidence in the way that you have done, and  
18          for the cooperation of all of the witnesses, and the  
19          manner in which the four days have been conducted  
20          overall. I am very grateful for the overall spirit of  
21          cooperation throughout.

22                 The Inquiry is not sitting tomorrow, and I will be  
23          resuming on Friday morning at 9.30 am. I understand  
24          that there will be a brief presentation in evidence by  
25          Mr Blacker in terms of the agreements reached by the LDA

1 with various statutory undertakers, public bodies and  
2 London Boroughs, following which I will hear closing  
3 submissions, then I shall formally close the Inquiry.

4 Thank you all again for your attendance.

5 The Inquiry is now adjourned until Friday morning at  
6 9.30 am.

7 (5.35 pm)

8 (The Inquiry adjourned until 9.30 am on Friday,  
9 4th August 2006)

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