Land at GE Aviation, Kings Avenue, Hamble-Le-Rice, Southampton

APP/W1715/W/20/3255559

Appellant's Opening Submissions

1. The Appellant is at the forefront of the UK's aviation industry and is fighting as hard as it can to remain competitive in the face of global competition, and to survive the global collapse of the aviation sector. It is a major local employer, the site accommodating approximately 500,000 sq ft of manufacturing and administration floorspace and currently providing jobs for 627 jobs. The Appellant's loyalty to the Borough is unquestionable: it has been based in Hamble since 1926. Be under no illusions: the Appellant is seeking permission in order to give itself the best chance it can of being able to continue its business on site.

2. In terms of securing permission, the Appellant has done everything absolutely by the book, starting with extensive pre-application discussion and engagement with the Council, the County Council and extensive consultation with the local community and key stakeholders, including national bodies (Historic England, Sport England, Natural England).

3. Its hard work paid off: unsurprisingly, given the quality of the information submitted and the endorsement of the key stakeholders - including of course the County Council - the application was reported to committee with a clear recommendation for approval.

4. Despite the position of its professional officers the Committee resolved to refuse the application.

5. Of the 6 reasons for refusal, the Appellant understands that only three remain, reason 4 (sports re-provision), reason 5 (European protected sites) and reason 6 (infrastructure contributions) being overcome by the completion of the proposed s.106 Agreement.

6. That then leaves only two matters in dispute: the impact of that part of the scheme that would be built beyond the urban edge (reason 1); and the scheme's highways impacts (reason 2 – pedestrians and cyclists, and reason 3 – the wider highway network).

7. The starting point for the determination of the appeal is of course s.38(6) of the 2004 Act, which requires that the appeal is determined in accordance with the development plan unless material considerations indicate otherwise.

8. The development plan – in so far as relevant to the Council's reasons for refusal - comprises the Council's adopted Local Plan (2001-2011). The Council's reasons for refusal also refer to the emerging Local Plan and the NPPF: these of course fall into the "material considerations" category for the purposes of s.38(6).

9. It is common ground that part of the appeal scheme would be built on land that is designated as "countryside" in the adopted Local Plan and that this part of the scheme does not accord with Policy 1.CO of the adopted Local Plan.

10. It is also common ground that the scheme would have some adverse impact in landscape terms. Policy 18.CO of the adopted Local Plan – very much a product of its time – mandates that any such development must be refused.

11. The questions that then follow are: whether these departures from <u>two</u> policies means that the scheme does not comply with the development plan <u>as a whole</u> and (if it does not) whether that departure is justified by material planning considerations (in this case all the essentially undisputed benefits that the scheme would deliver).

12. The Appellant's position is that the scheme does comply with the adopted Local Plan as a whole. For the reasons set out in Mr Chapmans evidence the plan needs to be read as a whole.

13. The site is in a sustainable location, with good access to jobs, services and facilities. The scheme will deliver very substantial economic, social and environmental benefits, including new housing in a Borough whose 5 year supply has decreased dramatically even since the application was reported to Committee; new much needed affordable housing in a Borough which has significantly under-delivered against its own targets; new and improved sports facilities, public open space, significant enhancements to the built fabric and the setting of one of the most important historic buildings in the country (opening up the building to public gaze for the first time in its history); allowing the Appellant to consolidate its operations and to remain as competitive as possible in the face of global competition and the collapse of the aviation industry; construction jobs; local spend, local finance considerations, improved local

access provision including new parking for local residents and visitors to the sports facilities, and enhanced biodiversity.

14. Further, for the reasons set out by Inspector Ware in his decision following the Satchall Lane appeal, limited weight should be given to Policy 1.CO, 18.CO and 59.BE, that decision being expressly endorsed by the High Court.

15. Further, the real world impact of the part of the scheme that is to be built outside the built up area is very limited – the product of the site's enclosure and also its close relationship to the existing built up area.

16. All of these matters support the conclusion that the scheme does comply with the plan as whole; alternatively that there are plainly material considerations which justify the grant of permission notwithstanding the non-compliance with Policy 1.CO and 18.CO.

17. As to reasons 2 and 3, the Council's position is misconceived.

18. Reason 2 alleges an "unacceptable impact and interference on the footpath and cycleway infrastructure, to the detriment of the ease of use and safety of pedestrians and cyclists".

19. This allegation needs to be seen the context of the fact that the responsible highways authority considers that the scheme is well designed and fit for purpose; and the fact that the scheme has been signed off pursuant to an independent safety audit. Yes, there will be changes, e.g. some pedestrians and cyclists will have very marginally longer journeys, but that needs to be set in context, e.g. the substantial improvements to Kings Avenue and to Coronation Parade which bring about clear accessibility and safety improvements for all users. In short, the Council is unacceptably conflating change with harm, and is failing to look at the scheme as whole.

20. Reason 3 alleges that "the significant movements generated by the proposed residential development, *when considered cumulatively with the potential for a growth in traffic associated with the retained commercial activities on site*, could not be accommodated adequately on Hamble Lane …." (emphasis added).

21. Clearly reason 3 is based on an assertion of <u>cumulative impact</u> of the residential development with the impact that could result if there was a growth in the traffic associated with the

retained activities on site. Mr Witney, on behalf of the Council, does not present any evidence to support this assertion.

22. Instead, Mr Witney introduces new assertions, seeking to challenge the methodology underpinning the Transport Assessment that was expressly considered by and agreed with the County Council and challenging the adequacy of the proposed mitigation measures, which again have been very carefully considered by and agreed with the County Council and the Council's own professional officers. As set out in Mr Tungatt's evidence, Mr Witney's position is misconceived. It is highly regrettable that Mr Witney appears not to have properly investigated matters which were within his client's knowledge or reach, such as the availability of the ATC data that shows that Mr Witney's allegations as to the adequacies of surveys carried out on 27th April 2017 are simply wrong. It is also notable – and regrettable - that Mr Witney seeks without question to rely on HCC's EMET report as evidence that the scheme should be considered unacceptable in terms of its traffic generation, when HCC's position on this application – following very detailed consideration – is of course that the scheme is entirely unobjectionable.

23. Mr Witney has very belatedly abandoned the core of his arguments on methodology[1], now conceding (inter alia) not only that the Appellant and the County Council were right not to apply TEMPRO growth to the committed schemes in order to assess background growth on the network (Mr Witney section 4.3) but also that he was wrong to argue that the TA took the wrong approach in terms of netting off the trips arising from the existing operational floorspace that would be removed to facilitate the scheme (section 4.3). These have fundamental consequences for Mr Witney's conclusions.

24. Mr Witney's arguments as to the adequacy of the proposed mitigation is also misconceived, again based on a misunderstanding as to the correct position and again running directly contrary to the position endorsed by the County Council.

25. Finally, some of the Council's witnesses impermissibly seek to introduce additional reasons for refusal., see e.g. Cllr Manning's assertion that the scheme would seriously stretch GP services and the Police and Emergency services, that is would make the peninsula too crowded, and that it would give rise to an unacceptable increase in air pollution; see also Mr Errington's leanings towards a prematurity point (proof 6,54). The Appellant reserves its

[1] EW email to Mr Tungatt 9.11.20

position in this regard, including as to the need for an adjournment (if the points are pursued) and costs.

26. In conclusion, the benefits of this scheme clearly outweigh its disbenefits. The Appellant's position is that the scheme complies with the development plan and that permission should therefore be granted. But even if the Inspector was to conclude that the scheme did not comply with the Plan there are clearly material considerations to justify a departure from that Pan. That would be the case even if, contrary to the Appellant's position, "considerable" or "substantial" weight was to be given to Policies 1.CO, 18.CO and 59BE(i), permission should still be granted as per Mr Errington's evidence. The Appellant's position is that subject to the imposition of appropriate conditions and the finalised s.106 Agreement planning permission should be granted for the Appeal Scheme so that this much needed and highly beneficial development can come forward without further delay.

Robert Walton QC

10th November 2020