

IN THE MATTER OF LAND AT GE AVIATION, KINGS AVENUE, HAMBLE-LE-RICE,
SOUTHAMPTON, SO31 4NF

AND IN THE MATTER OF AN APPEAL BY GE AVIATION LTD UNDER SECTION 78 OF
THE TOWN AND COUNTRY PLANNING ACT 1990

PINS REF: APP/W1715/W/20/3255559

LPA REF: O/18/84191

OPENING SUBMISSIONS
ON BEHALF OF EASTLEIGH BOROUGH COUNCIL

A. INTRODUCTION

1. These Opening Submissions are made on behalf of Eastleigh Borough Council (“the Council”) in the above Inquiry proceedings into the proposals of GE Aviation (“the Appellant”) for an outline residential-led scheme on the GE Aviation site (“the Site”).
2. The Appeal scheme is highly controversial. It is opposed not only by the Council, but also by Hamble and Hound Parish Councils¹, by the Local MP (Paul Holmes²), and by large numbers of local residents, with some 70 letters of objection at application stage³ and more since. It is controversial for good reason. It is contrary to the policies and spatial strategy of both the Eastleigh Local Plan Review 2001-2011 (“the Adopted Local Plan”) and the Eastleigh Borough Local Plan 2016-2036 (“the Emerging Local Plan”) as well as NPPF policy. And its impacts would be significantly harmful in landscape and countryside terms, in terms of failing to provide a safe and suitable access, and in terms of its impacts on an already highly congested local transport network.
3. The Appellant’s application (“the Application”) was refused for the six reasons set out in the Decision Notice of 16 January 2020⁴. As a result of considerable collaboration between the

¹ <https://www.eastleigh.gov.uk/planning-and-building/planning-inquiry-ge-aviation/appeal-documents>

² https://www.eastleigh.gov.uk/media/8191/210820_pins_3rd-party-representation-holmes-mp-p.pdf

³ CD64 paragraph 17 and https://www.eastleigh.gov.uk/media/8309/o_18_84191-appeal-representations.pdf

⁴ CD62

Council and Appellant, reasons for refusal 4 and 5 have been resolved and it is anticipated that reason for refusal 6 will be resolved imminently⁵. But reasons for refusal 1 to 3 remain, and they are fundamental.

4. The Application is for an outline consent (with all matters reserved except means of access) for a residential-led scheme for up to 148 dwellings with new vehicular access, works to highways, landscaping and other associated works, as well as the relocation of the existing cricket pitch and works to the existing bowls and football facilities. It also seeks permission for the demolition of the non-original extensions to the Grade II* listed Sydney Lodge and certain factory buildings. The Site Location Plan⁶ provides a helpful visual summary of the scheme.

B. HOUSING LAND SUPPLY

5. Since this is a residential-led proposal, it is important to understand the housing land supply position in the Borough. It is common ground that the Council can demonstrate a 5-year supply of deliverable sites (plus buffer) in accordance with paragraph 73 of the NPPF⁷. Indeed, the Council's most recently published Calculation of Five-Year Housing Land Supply paper (August 2020) demonstrates a 5.6-year supply⁸, significantly above the 5-year level. Moreover, the Emerging Local Plan now ensures that housing supply will be maintained into the early 2030s. Any uncertainty at that stage can and should be addressed through a review of the Local Plan, and not through ad hoc proposals such as the Appellant's scheme.

C. PLANNING POLICY

6. The Adopted Local Plan (the relevant policies of which were saved in 2009) is the key part of the development plan for the purposes of this Appeal⁹. It is common ground that it is not out-of-date because of its age or because it is time-expired, that its policies are not rendered out-of-date by the absence of a five-year housing land supply, and that the Plan is broadly consistent with the NPPF¹⁰. As Mr Errington shows, none of the relevant policies is out of date, Policy 1.CO and

⁵ Council's Position Statement on Reasons for Refusal 4, 5 & 6 (CD106)

⁶ CD61

⁷ SOCG (CD63) paragraph 6.3

⁸ SOCG (CD63) paragraph 6.3 and CD13.

⁹ The Hampshire Minerals and Waste Plan 2013 is also relevant, but the issues that arise under that can be straightforwardly addressed by condition (proposed condition 35).

¹⁰ Main SOCG paragraph 6.7

any conflict with it should be afforded significant/considerable to full weight, while Policies 59.BE and 18.CO and any conflict with them should be afforded at least substantial weight. The Appellant does not suggest that any of the other relevant policies should carry anything other than full weight. As a result, the policies which are most important for determining the Appeal are not out-of-date for the purposes of paragraph 11(d) of the NPPF. The NPPF presumption in favour of sustainable development therefore does not arise.

7. As for the Emerging Local Plan, Paragraph 48 of the NPPF provides that local planning authorities (and, by extension, Inspectors on appeal) may give weight to relevant policies in emerging plans according to: the stage of preparation of the emerging plan; the extent to which there are unresolved objections to relevant policies; and the degree of consistency of the relevant policies in the emerging plan to the NPPF. On these, the Council will show: that the Emerging Local Plan has reached an advanced stage of preparation (indeed it is nearing the end of the examination process); and that the unresolved objections are limited, following the agreement to delete the proposed Strategic Growth Option; and the Appellant does not suggest any inconsistency between the emerging policies and the NPPF. Mr Chapman is therefore, with respect, wrong to suggest that “only limited weight” should be given to the Emerging Local Plan¹¹. That Plan, and any conflict with it and its policies, should be given considerable weight¹².

D. WHETHER THE PROPOSED DEVELOPMENT WOULD BE IN AN APPROPRIATE LOCATION HAVING REGARD TO THE DEVELOPMENT PLAN AND THE EFFECT ON THE CHARACTER AND APPEARANCE OF THE SURROUNDING AREA

8. It is common ground that the Appeal Site occupies a sustainable location within the settlement of Hamble-le-Rice¹³, but its sustainability credentials should not be exaggerated. It must be remembered that it is at the lower end of Tier 3 settlements under the Emerging Local Plan’s settlement hierarchy¹⁴. And it is clear that, although sustainable modes will be encouraged, this will be a primarily car-based development.

¹¹ Chapman paragraph 3.17

¹² Errington Proof paragraph 6.43

¹³ Main SOCG paragraph 6.4.

¹⁴ CD4 page 34 and Errington Proof paragraph 6.53

9. The majority of the Appeal Site (55%) is countryside in both the Adopted and Emerging Local Plans¹⁵. The Appeal scheme therefore fails to respect the spatial strategies established under the Adopted and Emerging Local Plans in this respect. Moreover, countryside is an important and diminishing resource which should be protected and enhanced, and “diminution of the countryside” is intrinsically harmful, as the Grange Road Inspector recognised, and as is the case here¹⁶.
10. Beyond the countryside impacts, it is also common ground that the Appeal proposal will give rise to landscape and visual harms¹⁷. The precise nature and extent of those harms will be explored in the roundtable session, and although there is much common ground, the Council will contend that they are more significant than the Appellant has suggested¹⁸.
11. The Appellant accepts¹⁹ that the Appeal proposal is contrary to Policy 1.CO of the Adopted Local Plan. Contrary to Mr Chapman’s position, this is sufficient on its own to render the proposal not in accordance with the development plan. But in any event, as a result of its landscape and visual impacts, the proposal also breaches Policies 18.CO and 59.BE(i). It also breaches Policies S1, S7 and DM1 of the Emerging Local Plan as well as the NPPF.

E. WHETHER THE PROPOSED DEVELOPMENT WOULD PROVIDE SAFE AND SUITABLE ACCESS FOR ALL USERS

12. The Appeal scheme proposes significant changes to the access to the Site at the junction between Kings Avenue and Hamble Lane. There are some benefits of the proposed access (for example, it is common ground that the proposed parking area on Kings Avenue would have the potential to reduce instances of on-street and on-pavement parking, which would be to the benefit of pedestrian and cycle movements along Kings Avenue²⁰ and there are also advantages in allowing larger vehicles to enter the parade and load/unload in the area provided). However, regrettably, in trying to address the limited existing issues, the Appellant has created a proposed

¹⁵ SOCG (CD63) paragraph 6.5

¹⁶ CD12 at paragraph 17

¹⁷ SOCG (CD63) paragraph 6.19(vi)-(viii)

¹⁸ Errington Proof paragraph 9.6

¹⁹ Chapman Proof paragraph 4.50

²⁰ Transport SOCG paragraph 3.9

access junction that is harmful to the safety and amenity of cyclists and pedestrians, as Mr Whitney will demonstrate. As a consequence, the proposal is contrary to Policies 59.BE(v) and 102.T of the Adopted Local Plan, as well as Policy DM13 of the Emerging Local Plan and the NPPF.

F. THE EFFECT OF THE PROPOSED DEVELOPMENT ON HIGHWAY SAFETY AND TRAFFIC MOVEMENTS

13. It is common ground that Hamble Lane experiences congestion, particularly during peak periods²¹. This is the consequence of having a single road link to the wider world, and it is a serious and longstanding problem, as Councillors Craig²² and Manning²³ and Mr Whitney will explain.

14. The Appeal scheme would add to the problem and lead to an unacceptable impact on safety and severe residual impacts on the local road network. As a consequence, the Appeal proposal is contrary to Policies 100.T, 101.T and 102.T of the Adopted Local Plan, Policy DM13 of the Emerging Local Plan and paragraphs 91 and 108 of the NPPF.

G. THE EFFECT OF THE PROPOSED DEVELOPMENT ON AIR QUALITY

15. The Council does not have a freestanding objection to the proposal on air quality grounds, and it is common ground²⁴ that sufficient information has been submitted to demonstrate that air quality has been considered during the construction and operational phases, and that further air quality impact assessment would be required at reserved matters²⁵.

16. However, it is also common ground²⁶ that the air quality assessment was informed by the outputs of the Transport Assessment, and it follows that if the traffic impacts have been understated, the robustness of the Air Quality Assessment is called into question.

²¹ Tungatt Proof paragraph 3.5.1

²² Cllr Craig Proof paragraphs 5 to 6

²³ Cllr Manning Proof paragraphs 9 to 19

²⁴ CD63 paragraph 6.14

²⁵ Secured by proposed condition 24

²⁶ CD63 paragraph 6.14 and see paragraph 3.21 of the Appellant's Air Quality Assessment (Appendix E(xiv) to the Appellant's Statement of Case)

H. THE EFFECT OF THE PROPOSED DEVELOPMENT ON THE PROVISION OF SPORTS FACILITIES

17. As set out in the agreed Sports Provision Note²⁷ and the Council's Position Statement on Reasons for Refusal 4, 5 and 6²⁸, agreement has now been reached on this issue, and subject to securing the agreed provisions through execution of the section 106 and no objection from Sport England, the Council accepts that loss of the on-site facilities can be adequately mitigated through a package of off-site improvements and financial contributions towards cricket and football enhancements within the local area.

I. THE EFFECT OF THE PROPOSED DEVELOPMENT ON THE SOLENT AND SOUTHAMPTON WATER SPECIAL PROTECTION AREA

18. As set out in the agreed Nitrates Note²⁹ and the Council's Position Statement on Reasons for Refusal 4, 5 and 6³⁰, agreement has now been reached on this issue as well. The Council has also produced a Shadow Habitats Regulations Assessment³¹ to assist the Inspector in conducting the appropriate assessment required by Regulation 63 of the Conservation of Habitats and Species Regulations 2017. For the reasons set out in that document, the Council is satisfied that the mitigation measures secured by the section 106 agreement are sufficient to ensure no adverse effect on the integrity of any European Site.

J. HERITAGE EFFECTS OF THE PROPOSED DEVELOPMENT

19. The Appeal proposal involves development of the open space to the north of the Grade II* listed Sydney Lodge which would slightly erode its significance³². As a result, the balance under paragraph 196 of the NPPF must be applied: see *R (Kay) v SSHCLG* [2020] EWHC 2292 (Admin)³³ at [34]. In this regard, the Appellant relies on various public benefits of the proposal, including the demolition of later extensions to Sydney Lodge. The Appeal Application did not provide for the detail of the demolition of these extensions. Instead, they were addressed in a full planning application (Ref: F/18/84621) and a listed building consent application (Ref:

²⁷ CD104

²⁸ CD106

²⁹ CD102

³⁰ CD106

³¹ CD90

³² CD81 and paragraphs 10-11 of the Agreed Heritage Note (CD105)

³³ CD98

L/19/85126), which were granted permission/consent on 3 November 2020³⁴. In its Statement of Case, the Council identified a difficulty with the lack of provision in the Appeal Application for making good post-demolition and the lack of an associated listed building consent³⁵. As a result of the 3 November 2020 permission/consent, it is now possible to address the Council's concerns by condition. There is agreement between the parties on heritage effects (which overall will be beneficial), but there remains disagreement over the appropriate wording of a condition to secure the demolition of the later extensions. The Council will demonstrate that its proposed condition³⁶ is necessary to secure these and compliant with the tests in paragraph 55 of the NPPF.

K. WHETHER THE PROPOSAL MAKES ADEQUATE PROVISION FOR INFRASTRUCTURE NEEDS ARISING FROM THE DEVELOPMENT

20. As set out in the Council's Position Statement on Reasons for Refusal 4, 5 and 6³⁷, although final agreement has not yet been reached on the section 106 agreement, the parties believe this to be imminent. The Council has submitted a draft CIL Compliance Schedule to justify the contributions sought³⁸, and this will be finalised in good time before the roundtable discussion.

L. BENEFITS OF THE PROPOSED DEVELOPMENT

21. The Council recognises that there are certain benefits associated with the development. Mr Errington has very fairly considered those relied upon by the Appellant in section 11 of his Proof. Some are in fact mitigation, and so are not benefits at all. Others, while beneficial, are not unique to this site and could accrue from development that would not give rise to such harm. The benefit of market and affordable housing provision is limited in this case, given the healthy supply position. The works beneficially affecting the significance of Sydney Lodge are certainly beneficial, though the extent of the benefit secured would depend on whether the Council's preferred heritage condition were imposed.

³⁴ CD88 and CD89

³⁵ Council Statement of Case paragraphs 3.3 to 3.6

³⁶ Which reads "Prior to the occupation of the 75th dwelling, the demolition and improvement works to Sydney Lodge shall be carried out in accordance with Listed Building Consent (L/19/85126) and the associated planning permission (F/18/84621)."

³⁷ CD106

³⁸ CD111

M. PLANNING BALANCE

22. As in all cases, this Appeal must be determined in accordance with the development plan unless material considerations indicate otherwise. As the Council will show, the Appeal proposal does not accord with the Adopted Local Plan, the relevant policies of which are broadly consistent with the provisions of the NPPF and are not out-of-date. Neither is it consistent with the Emerging Local Plan or the NPPF. Moreover, its impacts would be significantly harmful in landscape and countryside terms, in terms of failing to provide a safe and suitable access, and in terms of its impacts on an already highly congested local transport network. The benefits must of course also be weighed in the balance, as Mr Errington does in his Proof, but as the Council will show, the balance falls against the Appeal scheme.
23. Since the most important policies for determining the Appeal are not out-of-date, the tilted balance does not apply, but even if it did, the Council considers that the adverse impacts significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Moreover, the proposal is contrary to the development plan and material considerations reinforce the view that permission should be refused.

N. OVERALL CONCLUSIONS

24. For those essential reasons, which will be explored in evidence, the Council will in due course invite you to dismiss this Appeal.

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