



## Appeal Decision

Inquiry held on 10-13 and 16 November 2020

Site visit made on 17 November 2020

**by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 15<sup>th</sup> January 2021

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**Appeal Ref: APP/W1715/W/20/3255559**

**GE Aviation, Kings Avenue, Hamble-le-Rice SO31 4NF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by GE Aviation against the decision of Eastleigh Borough Council.
  - The application Ref O/18/84191, dated 26 October 2018, was refused by notice dated 16 January 2020.
  - The development proposed is described on the application form as "outline consent, with all matters reserved except means of access, for the relocation of cricket pitch off-site and improvements to existing bowls and football facilities on site to enable the erection of up to 148 residential dwellings (Use Class C3) with new vehicular access, car parking, work to highways, landscaping, and other associated works. The application also seeks the demolition of non-original extensions to Sydney Lodge and redundant factory buildings".
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The ownership of the appeal site changed in January 2020 from GE Aviation to Aernnova. However, as the appellant has to be the same person or company who made the planning application, the appellant has remained GE Aviation.
3. A completed and executed Section 106 (S106) agreement was submitted after the inquiry closed. Given my overall decision, it has not been necessary for me to assess the entire agreement in detail. However, I have referred to relevant sections where applicable in specific main issues and the planning balance.

### Main Issues

4. There were 6 reasons for refusal attached to the decision notice. With the submission of the S106 agreement, the Council confirmed that the sixth reason for refusal relating to infrastructure would fall away. The fifth reason for refusal related to the Solent and Southampton Water Special Protection Area (SPA) only. However, during the appeal process, Natural England identified potential impacts on the New Forest SPA too. As a consequence, it was necessary to also address this SPA at the inquiry. Although not a reason for refusal or a main issue, my decision also addresses the effect of the development on the Grade II\* listed building at Sydney Lodge.

5. Based on the above, the main issues are:
- i) 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;
  - ii) whether the proposed development would provide safe and suitable access for all users;
  - iii) the effect of the proposed development on traffic movements and highway safety;
  - iv) the effect of the proposed development on the provision of sports facilities; and
  - v) the effect of the proposed development on the Solent and Southampton Water SPA and the New Forest SPA.

## **Reasons**

### *The appeal site and its surroundings*

6. The appeal site forms part of the aviation factory campus. There are a number of site buildings associated with the campus ranging from modern utilitarian structures to the listed Sydney Lodge. A large staff car park is located in the site's north-west corner. Some factory buildings have already been demolished.
7. A large part of the site is currently used for various sporting and community purposes. There is a cricket pitch in the central area of the site which is used by Folland Cricket Club and also provides space for two football pitches. The Folland Sports and Social Club is located on the edge of the cricket pitch. Further to the east and adjoining Hamble Lane is a football pitch and stadium used by Folland Sports Football Club. To the south of the stadium is a bowling green and buildings used by Folland Bowling Club, car parking abutting Kings Avenue, and an area of green space at the junction of Kings Avenue and Hamble Lane that includes a replica of the Folland Gnat aeroplane.
8. The site adjoins the settlement of Hamble-le-Rice and is accessed via Kings Avenue off Hamble Lane. To the east and south are residential streets while to the south-west are a range of factory buildings that form part of the aviation campus. To the north-west is woodland and the Royal Victoria Country Park (RVCP). Public footpath 13 connecting Hamble Lane to the RVCP runs along the site's northern boundary with Mount Pleasant Recreation Ground to the north. The footpath also forms part of Route 2 of the National Cycle Network (NCN2) that continues west towards Southampton and south-east along Hamble Lane.
9. All of the Kings Avenue roadway lies within the site, including the pavement along its south side up to the front boundary of properties on this side of the road. The junction between Kings Avenue and Hamble Lane is also located within the site along with the roadway for Coronation Parade to the south and an island pavement east of the parade next to Hamble Lane. There is also a pavement on the west side of the parade beyond the site area. The buildings on the parade form part of a local shopping area while the eastern pavement provides a shared surface for pedestrians and cyclists and is part of NCN2.

### *Main Issue 1: The appropriateness of the location / character and appearance*

10. The parties agree that the adopted Eastleigh Borough Local Plan Review 2001-2011 (LPR) is not out of date due to its age or the absence of a 5 year housing land supply (it is agreed that the supply stands at 5.6 years). There is also

consensus that the LPR is broadly consistent with the National Planning Policy Framework (NPPF). However, the parties disagree on the weight to be given to Policy 1.CO, 18.CO and 59.BE(i) in terms of their consistency with the NPPF. There is no disagreement over the weight to be given to any other LPR policies.

11. Policy 1.CO sets out that planning permission will not be granted for development in the countryside outside the urban edge unless one of a number of criteria apply. The supporting text notes that the countryside is important for a number of reasons including for its own sake, but is a diminishing resource.
12. A number of appeal decisions<sup>1</sup> were submitted on the weight to be given to this policy. Most of the submitted appeal decisions place significant, considerable or full weight to the policy based on its consistency with the NPPF. The most recent decision at Satchell Lane only gave limited weight as the Council had only achieved its 5 year housing land supply by permitting development in the countryside. The Inspector's reasoning was upheld by the High Court<sup>2</sup>.
13. The policy lacks flexibility by limiting the type of development that can take place in the countryside and the Council has had to permit housing in this location previously. However, the policy has general consistency with NPPF paragraph 170(b) which recognises the intrinsic character and beauty of the countryside. NPPF paragraph 20(d) seeks local plan policies that conserve and enhance the natural environment including landscapes and green infrastructure. Moreover, the policy does not apply a blanket restriction on development in the countryside. Therefore, I consider that moderate rather than limited weight can be attributed to this policy and any conflict with it.
14. Policy 18.CO states that development which fails to respect, or has an adverse impact on, the intrinsic character of the landscape will be refused. While the NPPF seeks sympathetic developments that conserve landscapes (paragraphs 20(d), 127(c) and 170(a) for example), it does not advocate an outright rejection of schemes that harm landscapes. Therefore, the policy has inconsistencies with the NPPF. This means only moderate weight can be given to the policy and any conflict with it.
15. Policy 59.BE(i) requires development to take full and proper account of the site including the character and appearance of the locality and be appropriate in terms of adjoining buildings, spaces and views. It follows the general approach to good design as set out in the NPPF and provides greater flexibility in terms of its application. Thus, the policy is broadly consistent with the NPPF and so can be afforded substantial weight.
16. The emerging Eastleigh Borough Local Plan 2016-2036 (ELP) is currently at examination. ELP Policy S7 sets out a presumption against new development in the countryside unless it relates to specified criteria. The supporting text clarifies that the borough's countryside is not regarded as a rural area but has the characteristics of urban fringe where careful management is required to avoid urbanisation and the coalescence of settlements. Policy S1(ix) seeks to maintain local environmental quality while Policy DM1i(a) requires development to avoid an unacceptable impact on the character and appearance of the countryside amongst other things. There are also relevant policies relating to

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<sup>1</sup> 3156702 (Mallards Road), 3153928 (Bubb Lane), 3173253-3178540 (The Mazels), 3194697 (Roll Call) and 3194846 (Satchell Lane)

<sup>2</sup> Eastleigh BC v SSHCLG and Ors [2019] EWHC 1862 (Admin)

- water (DM10), nature conservation (DM11), transport (DM13), and recreation and open space facilities (DM34).
17. Consultation on main modifications to the ELP is expected to take place in early 2021. It would appear that most of the objections and the Inspector's concerns to date relate to the spatial strategy and the strategic growth option. The Inspector has indicated an early review of the ELP rather than a major overhaul of the plan's approach. It is anticipated that any modifications to any relevant ELP policies would be limited. Therefore, while full weight cannot be afforded to the ELP yet, the relevant policies carry reasonable weight for this appeal.
  18. The appeal site straddles the urban edge boundary of Hamble-le-Rice which runs along the north side of Kings Avenue and along the eastern edge of the staff car park. The site is characterised by the industrial buildings and spaces associated with the aviation campus that lie within the boundary, and the open spaces and structures associated with the various sports facilities that lie beyond it. The latter constitutes around 55% of the total site area and is within the countryside as defined by the LPR. This designation would not change with the ELP. None of the criteria in either LPR Policy 1.CO or ELP Policy S7 are applicable to the proposal and so there would be conflict with both policies.
  19. While NPPF paragraph 170(b) recognises the intrinsic character and beauty of the countryside, it does not say that building on undeveloped land will be intrinsically harmful. The Grange Road appeal decision<sup>3</sup> only referred to the extension of built development into ordinary farmland as intrinsically harmful. The impact on the countryside will depend on the site characteristics and surrounding context, which can vary considerably between each location.
  20. The open spaces within the countryside part of the site are large, flat, and formal grass areas and sports pitches rather than fields or farmland. This part of the site is detached from the parkland landscape of the RVCP and is more closely related in character and appearance to the recreation ground landscape immediately to the north. In landscape terms it is quite ordinary but nevertheless performs the role of urban fringe.
  21. From Hamble Lane and Kings Avenue, there are views across this part of the site which help to provide an open backdrop to the adjoining industrial buildings and residential properties albeit these views include fencing, lighting columns and various other sports-related structures. From Footpath 13, there are views across the sports pitches in gaps between planting, with industrial buildings and residential properties only partially visible beyond. However, these views are limited and contained by planting. Further north from the recreation ground, the site is difficult to see even in late autumn due to the density of planting on both sides of Footpath 13.
  22. There would be built development across the cricket pitch which represents a significant amount of the total site area. As a result, there would be a reduction in the sense of openness within the countryside part of the site and an obvious change to its character at a site specific level. This would be most noticeable from Footpath 13 where the parties agree a major adverse effect is likely next to the cricket pitch in winter. Housing would be obvious from any gaps (including proposed new access points to the footpath) and even with additional planting there would be a loss of openness.

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<sup>3</sup> 3005761

23. However, with an existing dense vegetated boundary either side of Footpath 13, which could be reinforced along the edge of the appeal site, a new urban edge boundary could be created to be as strong, clear and defensible as the existing Kings Avenue boundary. There would be little visual or landscape effect further to the west from the RVCP or to the north from the recreation ground due to the contained and detached nature of the countryside part of the site. The development would be set against the immediate backdrop of existing housing and factory buildings and would form a contained extension to the settlement. It would be possible to see housing in views from Kings Avenue and Hamble Lane, but this would be across retained open space and where planting would increase screening within ten years.
24. The loss of openness and green space would reduce the urban fringe qualities of this part of the countryside and result in an adverse effect on the character and appearance of the surrounding area. The effects would be more than minor as there would be notable changes along Footpath 13 in particular. However, with the contained and detached nature of the site and the ability to strengthen boundary screening, the adverse effects would not be significant but instead of a moderate nature.
25. Concluding on this main issue, the development would not be in an appropriate location having regard to the development plan and the effect on the character and appearance of the surrounding area. The harm would be mitigated by the limited and localised effect on landscape and visual character as well as the countryside but would still be of a moderate level. Thus, the development would conflict with LPR Policies 1.CO, 18.CO and 59BE(i), ELP Policies S1(ix), S7 and DM1i(a), and NPPF paragraph 170(b) as outlined above.

*Main Issue 2: Access*

26. Kings Avenue provides one of the two main access points into the aviation campus (the other being via Coach Road and Cliffe Avenue which is used for heavy goods vehicles). It also contains a number of properties on its south side. There is a significant level of on-street parking that results from various sources including the properties and the nearby shops on Coronation Parade. Lorries delivering to the food store on the parade frequently park on Kings Avenue which requires difficult vehicle manoeuvring for each visit.
27. The junction of Kings Avenue and Hamble Lane is wide and complicated by Coronation Parade which is a one-way road for motor vehicles that exits onto Kings Avenue close to the junction. Pedestrians and cyclists use both the western and eastern pavements to move along Hamble Lane past the parade. The former is around 2.1m wide at its narrowest while the latter is 4m. To the south of the parade is the junction with Coach Road.
28. The western and eastern pavements have crossing points at either end across Kings Avenue and Coach Road. For the eastern pavement, this allows a straight route for users including cyclists along NCN2 where it crosses the widest points of both side roads. In addition to this key desire line, it is common ground that pedestrians and cyclists also cross Kings Avenue from the western pavement either directly north-south or diagonally to make full use of the dropped kerbs. While NCN2 heads west to RVCP, off-road cycle routes continue north along Hamble Lane to the nearby primary school and the secondary school and train station beyond. Agreed survey data (October 2019) shows that around 75% of

- pedestrians and 50% of cyclists do not use the eastern pavement when crossing Kings Avenue.
29. The development proposes wide ranging changes to the site access along Kings Avenue with the road itself moved northwards to provide a separate off-street parking area for the existing properties. The eastern pavement would be around half its current width and cyclists in particular would be discouraged from using it by grass-concrete surfacing. The western pavement would increase to around 3.5m as a shared route for cyclists and pedestrians. The crossing of Kings Avenue would be at a narrower point away from the junction while there would remain two crossings of Coach Road. There would be a dedicated loading bay for lorries within the parade.
  30. Both parties referred to national design standards for cycle infrastructure in Local Transport Note 1/20 (LTN1/20). This document promotes segregation between pedestrians and cyclists on urban streets, along with coherent, direct and safe cycle routes that do not reduce the level of service for pedestrians. Widths of routes should take into account features such as adjoining walls.
  31. The increase in journey times for pedestrians who currently use the eastern pavement only would be around 20 seconds which would make a minor difference even for short trips. The equivalent increase for cyclists would be a few seconds and so barely noticeable. However, in both cases the user would be required to take a less direct route in front of the shops. The increased pavement width of around 3.5m would allow cyclists to pass each other, but there would be pedestrians and car doors to negotiate on a section of pavement next to a low wall with people coming and going from the shopping parade. While it is difficult to insist on segregated space between pedestrians and cyclists given that none exists at present, the amount of space for both users would reduce in width from over 6m across the two pavements to around 3.5m along a single pavement.
  32. Cyclists crossing Coach Road would also have to negotiate a 90 degree turn on a narrow section of pavement on the south side of that road. This would be particularly awkward for two-way traffic or cyclists with trailers and/or small children. The alternative option to the western pavement for cyclists would be to use Hamble Lane itself, which can be very busy at times. Some of the constraints of the Coach Road crossing could be addressed by the Section 278 process between the appellant and Hampshire County Council (HCC), such as moving the existing lamppost and widening the dropped kerb. However, I am not convinced from the evidence before me that the constraints could be satisfactorily resolved through this process or that the process would involve adequate public consultation.
  33. Given that the existing eastern pavement provides a wide and direct route for cyclists along NCN2, the proposed changes would amount to a significant reduction in the quality and safety of the route along Hamble Lane. It would also create safety issues for pedestrians using the parade and passing along it. The likely increase in pedestrians and cyclists using the western pavement and the overall number of both would be limited based on agreed survey data. However, this should not justify a poorer experience particularly on what is being promoted as a national cycle route. Additionally, no data was collected relating to the number of cyclists who use the Coach Road crossing, thereby

making it difficult to ascertain the likely impact. Therefore, I afford considerable weight to the negative effects of this aspect of the development.

34. HCC has raised no concerns with the overall design, informed in part by a Stage 1 Road Safety Audit carried out on behalf of the appellant. The auditors retrospectively received materials relating to existing and proposed routes for cyclists and pedestrians, although they have confirmed they remain satisfied with the safety aspect. However, the audit does not address the impact of proposed changes in relation to the Coach Road crossing. Moreover, it only addresses the safety elements of the proposals, rather than the overall quality.
35. There are benefits associated with the changes to the site access. The new loading bay would ensure safer deliveries to the food store and a separate parking area for Kings Avenue residents should allow less obstructed movement along the road for all users. The pedestrian crossing from Folland Court to the parade would be improved by relocating parking spaces. However, it has not been demonstrated that these benefits are dependent on greatly reducing the usability of the eastern pavement. The benefits of widening the more heavily used western pavement would be negated by the reduction of the eastern pavement. A relocated crossing of Kings Avenue further west from the junction with Hamble Lane would benefit the majority of pedestrians but only around half of all cyclists. Therefore, the benefits of the changes would not be sufficient to outweigh the negative effects particularly in terms of cycling.
36. Concluding on this main issue, the development would not provide safe and suitable access for all users. Therefore, it would not accord with LPR Policies 59.BE(v) and 102.T, and ELP Policy DM13. These policies, amongst other things, seek satisfactory means of access with development requiring new or improved access permitted so long as it does not interfere with the safety, function and standard of service of the road network. The development would also conflict with NPPF paragraphs 91, 102 and 108(b) which encourage walking and cycling and seek safe and suitable access for all. LPR Policy 92.T as referenced in the Council's decision notice is not relevant to this main issue as it relates to Local Transport Plan proposals which are not applicable here.

*Main Issue 3: Traffic movements and highway safety*

37. Hamble Lane provides the principal route from Hamble-le-Rice to the wider road network including the M27 and roads into and out of Southampton. In addition to the appeal site and wider aviation campus, there are other factory and industrial sites in the Hamble area and new housing developments. Hamble Lane is subject to significant congestion at peak times, with a number of junctions experiencing capacity problems particularly nearer to the M27 from Portsmouth Road northwards. HCC has undertaken a study of the corridor and identified improvements to specific junctions as part of the Hamble Lane Improvement Scheme (HLIS).
38. Some areas of disagreement between the parties were resolved before evidence was heard at the inquiry, including the method of estimating background traffic growth, netting off of trips (based on the existing/vacant land uses within the site), and modelling of signalised junctions. However, differences remain on baseline data and modelling, the impact (severe or otherwise) of the development, and the sufficiency and likelihood of mitigation.

39. The baseline scenario set out in the Transport Assessment (TA) was established using observed traffic data from manual and automatic traffic counts (MTC and ATC). The former took place on the Thursday before the Early May Bank Holiday in 2017 and was used to work out junction movements and queue lengths. The proximity of a holiday period could suggest unrepresentative MTC data, while relying on a single day of MTC data could undermine modelling work for queue length calibrations. However, when compared to ATC data from the rest of that week and a week in mid-June and early October 2017, the data is broadly similar. Therefore, I find that the MTC data and the queue length calibrations and turning proportions are representative.
40. No junction modelling of Windhover Roundabout was included in the TA. The roundabout connects Hamble Lane to the M27 and is subject to a proposed Highways England improvement scheme due to significant congestion issues. Existing modelling has been carried out as part of that scheme. Based on the approach to netting off trips, the TA estimates the increase of traffic flows through the junction as a result of the development would be minimal. However, Table 3.5 in the appellant's transport rebuttal proof indicates an increase in flows similar to those at other junctions that are modelled in the TA. This casts doubt on the appellant's claim of minimal impact.
41. Isolated junction models were used in the TA rather than a microsimulation model that could assess the interaction of different junctions on a congested route. The appellant was not advised to produce a microsimulation model and such work can be costly. Moreover, HCC has its own microsimulation model to inform the HLIS. HCC has assessed the development against the HLIS and found the impacts to be acceptable. Therefore, while a microsimulation model could have been used, the appellant's model was not inappropriate.
42. The TA sets out queue lengths and time delays comparing the future baseline scenario (baseline traffic data plus background growth) with the preferred development scenario. It is agreed that the development could result in fewer vehicles on the network in the morning peak hour and more vehicles on the network in the evening peak hour based on the full occupation of existing vacant units on site. It is also common ground that 4 of the junctions on Hamble Lane currently operate over theoretical capacity and are expected to continue doing so with the development in place. The future baseline scenario alone reveals significant increases in queue delays in some locations compared to the current baseline.
43. The impacts should be considered as a whole and there would be a mix of positive and negative results at each junction. At both the morning and evening peaks, some junctions would experience a decrease in queue delays when comparing the two scenarios. Most of the queue delay increases would be under 10 seconds. However, there would be some notable negative impacts in specific locations.
44. For the Hamble Lane north arm of the Tesco Roundabout junction in the evening peak, the queue length would increase substantially in the preferred development scenario. This equates to an increased time delay of over a minute to give an overall delay of three and a half minutes. In the morning peak, the worst affected junction would be the A3025 Portsmouth Road right turn with nearly half a minute time delay and an overall delay of three and a half minutes. As noted above, the Windhover Roundabout junction has not

- been modelled but it lies next to the Tesco junction. Therefore, there could be noticeable impacts at Windhover too.
45. There is no definition of 'severe' in the NPPF or elsewhere in policy. I consider that individual impacts at the Tesco Roundabout and Portsmouth Road junctions would be severe, particularly when compared to the current baseline and considering the cumulative impact of background growth elsewhere. Hamble Lane is already congested and the development would result in increased queuing. The appellant and HCC concur in their agreed statement on transport matters that the impact would not be severe subject to the agreed package of measures.
  46. The measures comprise a financial contribution of £750,000 towards delivering the HLIS, the aforementioned changes to Kings Avenue and Coronation Parade, and the implementation of the proposed Travel Plan. The appellant and HCC agree that the provision of such measures recognises the necessity of making otherwise unacceptable development acceptable. Therefore, the evidence indicates that the development would have a severe impact in an unmitigated form. Even if it was less than severe, there would still be harm and a requirement to mitigate and/or weigh this in the overall balance.
  47. HCC's position on the impact is based on the residential trip generation only and does not take into account any reduction in traffic from buildings to be demolished. Nevertheless, the mitigation measures must address the adverse effects of the development.
  48. The financial contribution towards the HLIS would be focused on works to the Hound Road and Portsmouth Road junctions initially, with the scope for any unspent money to go towards other improvements. The TA models the impact of proposed mitigation measures at the Hound Road junction and concludes that sufficient capacity would be achieved. Based on the robustness of the baseline data and modelling for this junction, I have no reason to disagree. In contrast, there is no modelling in the TA of mitigation measures for the Portsmouth Road junction or any others.
  49. The Hamble Lane Corridor Study (HLCS) which informs the HLIS does not make any provision for improvement works to the Hound Road junction. There are no costs for the works other than the appellant's suggestion at the inquiry that they could be around £1.3 million. HCC currently holds £2.33 million towards the HLIS with a further £1.27 million to be secured including the appellant's £750,000. This is significantly less than the total estimated costs of works in the HLCS which dates from 2017. Even allowing for contingency and overly optimistic estimates, it is not clear whether there is sufficient funding to carry out the works within the HLIS. HCC continue to wait for a decision from the Department for Transport on its Pinch Point bid to relieve local congestion. HCC officers have also indicated that more assessment would be required even if the bid was successful along with a further 2 years to the start of construction.
  50. It is conceivable that individual elements of the HLIS could come forward in a piecemeal fashion, including the Hound Road and Portsmouth Road works. However, there is a lack of mitigation modelling for most of the junctions and uncertainty over the funding and construction timescales. Therefore, I conclude that the HLIS related mitigation measures are unlikely to be sufficient or come forward within a reasonable timeframe. Although these measures are based on the residential trip generation only, the inability to demonstrate that they are

appropriate and can be delivered casts doubt on the ability to mitigate the traffic impact of the development. It is also important to note that I have also found flaws in the changes to Kings Avenue and Coronation Parade in the previous main issue.

51. The approach to baseline data and much of the modelling work is adequate, but doubts remain on the effects on the Windhover Roundabout junction due to the absence of specific assessment. Overall, I find that the mitigation measures are uncertain and so the development would be likely to have an unacceptable effect on traffic movements within the local road network.
52. HCC's lack of objection to the development is clear, despite some confusion created by the timing of a March 2019 HCC report to the Executive Member for Environment and Transport, which states that until improvements to the northern section of Hamble Lane have been implemented it is considered inappropriate from a traffic perspective for further development to be allocated or permitted along Hamble Lane. The main parties have also disputed the wording and meaning of the Council's third reason for refusal. However, from the evidence before me, I conclude that the development would have an unacceptable effect on traffic movements and highway safety.
53. As a consequence, the development would not accord with LPR Policies 100.T, 101.T and 102.T, and ELP Policy DM13. Amongst other things, these policies require development to minimise its impact on the existing transport network, avoid interference with the safety, function and standard of service or the road network, and provide contributions towards transport improvements. The development would also not meet NPPF paragraph 108(c) which seeks to cost effectively mitigate to an acceptable degree any significant impacts of schemes on the transport network in terms of capacity and congestion. NPPF paragraph 109 is also applicable, which seeks to only prevent development on highway grounds if there would be an unacceptable effect on highway safety or the residual cumulative impacts on the road network would be severe.

#### *Main Issue 4: Sports facilities*

54. The development would result in the loss of the cricket pitch in the central part of the site which also provides for two grass football pitches and training area. Sport England's Playing Fields Policy and Guidance (PFPG) opposes the loss of playing fields unless one or more exceptions can be demonstrated. Exception 4 allows for a replacement playing field of equivalent or better quality/quantity, in a suitable location, and subject to equivalent or better accessibility and management arrangements.
55. The S106 agreement would provide for playing field improvements at College Playing Fields (CPF) to accommodate 10 cricket wickets alongside further playing fields improvements in this location including nets, storage, fencing, and enhancement to the existing pavilion. The improvements would need to follow national guidelines to the satisfaction of an authorised pitch adviser and be provided before the cricket club is displaced and development commences on that part of the site. CPF is located on the north side of Hamble-le-Rice and only a short distance from the site. It is accessible to the public and on a long-term lease to Hamble Parish Council (HPC) where the landowner cannot unreasonably withhold consent for any playing field related structures.

56. In addition to the CPF improvements, the S106 agreement would contribute towards off-site cricket improvements in the Bursledon, Hamble-le-Rice and Hound (BHH) local area. The S106 agreement would also contribute towards football and training improvements in the BHH local area to address the loss of the grass football pitches. Both contributions would be paid in two instalments at the commencement of development and before occupation of the 76<sup>th</sup> dwelling to encourage replacement facilities to come forward swiftly.
57. It is not possible for the S106 agreement to guarantee that the cricket and football clubs who use the existing cricket pitch would be able to use CPF and other local sites. However, a separate community use agreement could be used to secure a long-term tenure and maintenance agreement at CPF.
58. The S106 agreement provides for recreation and sports facilities on site works. These works would involve a number of enhancements to facilities for the Folland Sports Football Club and Folland Bowls Club including a new clubroom to replace the existing social club. The S106 agreement also compels the owner to use reasonable endeavours to grant leases or rights of occupation for 25 years to both clubs to secure their continued use of the facilities.
59. I am satisfied that the above obligations in the S106 agreement would meet PFPG Exception 4 and would allow existing sports clubs to remain locally on improved facilities. The above obligations would also be necessary, directly related and fairly and reasonably related in scale and kind. Thus, I would be able to take them into account if minded to allow the appeal.
60. In conclusion, the development would have an acceptable effect on the provision of sports facilities. Therefore, it would accord with LPR Policy 145.OS, ELP Policy DM34, and NPPF paragraph 97, which seek to ensure the replacement of open space and sports facilities with equivalent or better provision. The development would comply with the PFPG as set out above, and there would be no conflict with the Council's Sports Facility Needs Assessment and Playing Pitch Strategy Update 2017.

*Main Issue 5: Special Protection Areas (SPA)*

61. The site is within 5.6km of the Solent and Southampton Water SPA and Ramsar site. The SPA contains estuaries and adjacent coastal habitats important for breeding gulls and terns and wintering waterfowl. The wetland habitats support passage birds too. There is also the Solent Maritime Special Area of Conservation (SAC) important for its major estuarine systems and habitats. Potential adverse effects on the SPA and SAC from the development relate to recreational disturbance and water quality (both nutrients and surface water drainage). This could result in likely significant effects on the integrity of the European sites in combination with other plans or projects.
62. The site is around 20-27km from the New Forest National Park depending on the route taken. The New Forest SPA supports important breeding populations of bird species including the Nightjar, the Honey Buzzard, the Dartford Warbler and the Woodlark. During the appeal process, Natural England expressed the view that the development would result in a proportion of regular visits to the New Forest that could have potential adverse effects on the SPA in terms of recreational disturbance. There are a number of country parks closer to the development than the New Forest which provide opportunities for recreation and dog walking. However, the ELP recognises the potential impact of new

housing within Eastleigh on the New Forest. Applying a precautionary principle therefore, the development could result in likely significant effects on the integrity of the New Forest SPA in combination with other plans or projects.

63. On the basis of the above screening assessment, it would be necessary to carry out an appropriate assessment (AA) as part of my decision were I minded to allow the appeal. However, given my findings on the other main issues and the overall planning balance, there is no need for me to carry out an AA as there is no prospect of planning permission being granted. As a consequence, it is not necessary for me to reach a finding on this main issue.

*The listed building at Sydney Lodge*

64. Sydney Lodge was designed by Sir John Soane and built towards the end of the 18<sup>th</sup> century for the Yorke family who owned it until 1926. The family included notable political figures. The building is an almost square and symmetrical two storey building constructed mostly of yellow stock bricks with Portland stone detailing including window cills and the entrance porch. The internal plan form is largely unaltered with a grand hall and stone staircase illuminated by a highly decorative lantern above. The principal rooms are spacious and contain a number of historic architectural features including fireplaces and ceiling decorations. The stable to the side of Sydney Lodge is contemporary with the main lodge building and utilises similar materials and architectural features.
65. Sydney Lodge has considerable architectural interest as a largely intact and fine example of Sir John Soane's work as well as strong historic interest due to its associations with well-known people of the 18<sup>th</sup> and 19<sup>th</sup> centuries including its architect. This contributes greatly to the special interest of the listed building as well as its significance.
66. The land surrounding Sydney Lodge has changed substantially since the original grounds were developed for the aviation industry in the 1920s. There have been a number of 20<sup>th</sup> century additions to the side and rear with a range of single storey structures between the listed building and the Kings Avenue entrance. They have little architectural merit and obscure views of the historic building when entering the site. The listed building's surroundings are also compromised by the modern factory buildings to the south and west although there is an open space in front of the historic building and two of the nearest factory buildings have been recently demolished. The cricket pitch to the north provides some openness while there is a private garden to the rear, albeit in need of some maintenance.
67. The setting of the listed building is therefore mixed, with detracting industrial features but also areas of open space. The surrounding land is privately owned and there are only glimpsed public views of the building from Kings Avenue and Footpath 13. Thus, the existing setting makes a moderate positive contribution to the special interest and significance of the listed building.
68. The proposed housing on the cricket pitch would reduce the openness of the setting to the north. It is common ground that this would result in less than substantial harm and the slight erosion of the listed building's significance. NPPF paragraph 196 requires such harm to be weighed against the public benefits of the proposal. NPPF paragraph 193 places great weight on the conservation of heritage assets while NPPF paragraph 194 requires clear and convincing justification for any harm or loss.

69. There are a number of agreed heritage benefits including the demolition of later additions, the removal of nearby structures, and landscaping works. The parties consider that great weight should be given to these benefits as a whole but disagree on the use of specific planning conditions to secure the demolition of the later additions. These works are covered by a separate planning permission and listed building consent. A condition on this appeal simply requiring compliance with these approvals would not guarantee that the works would be carried out as part of the development. Therefore, were I minded to allow this appeal, the Council's preferred condition requiring works to be carried out prior to occupation of the 75<sup>th</sup> dwelling would be necessary.
70. The heritage benefits are public benefits which would clearly and convincingly outweigh the limited harm to the significance of the listed building. Its special interest would be preserved and there would be a number of enhancements to the building and its setting. Thus, I concur that great weight can be given to the benefits and the conservation of the heritage asset.

#### *Other Matters*

71. Interested parties have identified a number of other concerns, but given my overall conclusion, it has not been necessary to consider these in any detail.

#### **Planning Balance and Conclusion**

72. The development would result in a number of benefits. As outlined above, the heritage benefits of the development would carry great weight provided the later additions to the listed building are removed. NPPF paragraph 118(c) says substantial weight should be given to the value of using suitable brownfield land within settlements for homes while NPPF paragraph 68(c) states that great weight should be given to the benefits of using suitable windfall sites within settlements. Only part of the site is brownfield and within the settlement, but these benefits can still be afforded significant weight.
73. The delivery of affordable housing at a policy compliant level (35%) via the S106 agreement would be a significant benefit. The existence of a 5 year housing land supply reduces the weight given to the delivery of market housing. Nevertheless, the development would boost overall housing supply and so reasonable weight can be afforded to this benefit.
74. There would be economic benefits from construction, additional local spending and the New Homes Bonus, all of which would be significant. The development would allow Aernnova to consolidate and rationalise its business in light of global competition and uncertainties over the aviation industry. In part, this is a private benefit to the company, but it could also help to support jobs and the local economy. In the absence of more detailed and specific information in terms of how the existing business would benefit from the development, I afford this aspect moderate weight.
75. Improvements to sporting facilities within the site in terms of the football and bowls clubs represents a moderate benefit for users of those facilities. The on-site open space/play area provision and the off-site provision of open space and sports facilities via the S106 agreement largely mitigates the effect of the development. However, there would be some overall improvement in football and cricket facilities, particularly at CPF, which counts as a moderate benefit.

76. Notwithstanding my overall conclusion on the second main issue, there would be some improvements in terms of access and parking, particularly along Kings Avenue and for deliveries to the food store. These benefits can be afforded moderate weight.
77. Weighing against these benefits are a number of adverse effects. First, the development would not be in an appropriate location having regard to the development plan and the effect on the character and appearance of the surrounding area. The level of harm and the conflict with the development plan is only moderate due to the limited and localised effects, plus the reduced weight I have attributed to relevant policies.
78. Second, the development would not provide safe and suitable access for all users. Given the reduction in the quality of the cycle route and increased risk of conflict between different users in front of Coronation Parade, I afford considerable weight to this adverse effect and the conflict with relevant policies.
79. Third, the development would have an unacceptable effect on traffic movements. Given the already congested nature of Hamble Lane and the inability to adequately mitigate the effect of the development, I afford substantial weight to this adverse effect and the conflict with relevant policies.
80. Taken together, the adverse effects would outweigh the benefits of the development. There would be conflict with the development plan and insufficient material considerations to indicate that planning permission should be granted on this occasion.
81. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

*Tom Gilbert-Wooldridge*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT

Robert Walton QC, instructed by Simon Chapman of RPS.

He called:

Damian Tungatt BSc MCIHT  
Director, Markides Associates Ltd

Paul Ellis BA (Hons) Dip LA Member of the Landscape Institute  
Technical Director, RPS

Simon Chapman BA (Hons) BPI MRTPI  
Director, RPS

Louise Belderbos  
Partner, Land Law LLP

### FOR THE LOCAL PLANNING AUTHORITY

Ned Helme BA (Oxon) GDL BVC of Counsel, instructed by Ian Austin, Head of Legal Services, Eastleigh Borough Council.

He called:

Councillor Keith House MRTPI  
Eastleigh Borough Council

Councillor Tonia Craig  
Eastleigh Borough Council

Councillor Adam Manning LLB LLM  
Eastleigh Borough Council

Ed Whitney BSc (Hons) MCIHT  
Senior Transport Planner, Ove Arup and Partners Ltd

Pete Errington BSc (Hons) Dip TP MRTPI  
Planning Associate, Adams Henry Consulting Limited

Kitty Budden BSc (Hons) MSc MSc  
Principal Planning Officer, Eastleigh Borough Council

### INTERESTED PARTIES WHO SPOKE AT THE INQUIRY

Jody Slater	Local resident
Tina Cuss	Countryside Planning Officer, Hampshire County Council

## **DOCUMENTS SUBMITTED AT THE INQUIRY**

ID01	Appellant's opening submissions
ID02	Council's opening submissions
ID03	Updated draft S106 agreement
ID04	Solent and Southampton Water SPA conservation objectives and citation
ID05	Solent Maritime SAC conservation objectives and citation
ID06	New Forest SPA conservation objectives, supplementary advice and citation
ID07	Email from Natural England dated 13 November 2020 containing further advice on the shadow Habitats Regulations Assessment
ID08	CIL Compliance Schedule (version 4 dated 13 November 2020)
ID09	CIL Projects Location Plan
ID10	Information note dated 15 November 2020 relating to College Playing Fields including copy of the lease
ID11	Council's closing submissions
ID12	Court of Appeal judgment R (Mynydd y Gwent Ltd) v Secretary of State for Business, Energy and Industrial Strategy [2018] EWCA Civ 231
ID13	Appellant's closing submissions including appendix summarising junction delays
ID14	Email correspondence between the Council and Sport England regarding the draft S106 agreement

## **DOCUMENTS SUBMITTED AFTER THE INQUIRY CLOSED**

Doc 1	Amended draft conditions
Doc 2	Addendum to the shadow Habitats Regulations Assessment dated 1 December 2020
Doc 3	Email from Natural England dated 11 December 2020 regarding the addendum
Doc 4	New Forest National Park Authority Revised Habitat Mitigation Scheme (July 2020)
Doc 5	Updated draft S106 agreement
Doc 6	Completed and executed S106 agreement