

RULE 6 PARTY PROOF OF EVIDENCE

**INTO THE REFUSAL BY
NORTH SOMERSET COUNCIL
FOR THE EXPANSION OF BRISTOL AIRPORT
Reference ; APP/D0121/W/20/3259234**

**SUTHERLAND PROPERTY
& LEGAL SERVICES LTD**



PLANNING & ARCHITECTURAL CONSULTANCY SERVICE

SUMMARY

1. I act for the rule 6 party who is the owner of an alternative site proposed for the provision of airport car parking, Mr Michael Pearce. I am a planning solicitor who has run a planning consultancy for in excess of 20 years, much of my work has been in the North Somerset Area. I have acted for many local off-airport parking operators since BAL became an International Airport. There are many local landowners who use their Permitted Development Rights to lawfully provide car-parking to serve airport customers as well as those with incidental parking operations alongside hotels and bed and breakfast operations. These are all local businesses creating local employment in this rural area.

2. Part of the BAL proposal is the creation of additional ground level car parking on Green Belt land, expanding the periphery of the site further into the Green Belt alongside the permanent retention of the “seasonal” car park. In putting forward the appeal proposal BAL carried out a locational sequential assessment of alternative available sites and concluded there were no other sites available. This is not correct. BAL were fully aware of the proposed alternative site but failed to assess or consider it on the basis they considered there was insufficient information about it. I am aware BAL have provided a raft of updates since the refusal but it appears they have not reconsidered the alternative site as part of this work.

3. The BAL proposal for the additional element of car parking is accepted as inappropriate development in the Green Belt by BAL yet the proposal concludes very special circumstances exist due to the absence of any alternative provision. This statement sets out the details of the failure by BAL to properly conduct the relevant processes in reaching this conclusion. The evidence demonstrates that this aspect of the BAL proposal is unjustified and inappropriate and does not benefit from any very special circumstances that would allow the Inspectors to conclude acceptability in the Green Belt.

4. A full statement of case was submitted setting out the full details of the Rule 6 party’s case. I support the refusal of the scheme by the LPA in relation to reasons for refusal 1 (adverse impact on the local community) and 4 (inappropriate development in the Green Belt.). The LPA have failed to plan for the identified parking need off site in the Local Plan instead encouraging BAL to update the ASAS and supporting the continued monopoly of the airport in policy terms.

SUBMISSIONS

5. Bristol Airport is surrounded by Green Belt and the refused proposal submitted under planning reference 18/P/5118/OUT by BAL sought to expand further into the Green Belt to make way for more airport car parking. It is in evidence that a significant percentage of the BAL income is achieved through their on site parking provision.

Bristol is the largest airport in the UK without a rail or mass transit link, without direct access to a motorway and even without dual-carriageway access to the airport.

6. One of the biggest issues arising is the impact on local people living on the roads and in villages surrounding the airport and the number of vehicle movements generated everyday by the airport, with attendant effects on air quality and the impacts on climate change arising from the proposal. At present, Local Plan Policy supports a monopoly for the Airport by requiring any airport parking provision off site to be acceptable only in association with hotel or overnight stay provision. The LPA currently take enforcement action where hotel operators allow customers to leave their vehicles on site during their holiday when booking overnight stays at either end. The LPA enforcement team have stated that as soon as a car owner leaves the site of the Hotel, parking becomes unlawful under Policy – which allows up to 3 cars per unit (Appendix 1 – The Forge enforcement, see para 42). It is unsustainable to continue to allow BAL to expand and encroach into the Green Belt when other more suitable off-site provision can be delivered without impact on the services the airport provides and without further development in the Green Belt.

7. It is noteworthy that the aim of Policy DM30 (Off-airport car parking) is;

“to appropriately manage the demand for travel by car by ensuring that the provision of car parks is balanced with the need to promote wider travel choices and to protect the Green Belt from off-airport car parking”.

The supporting text acknowledges that this aim is mainly achieved through the Green Belt status itself, which precludes inappropriate development. Numerous appeal decisions have established that airport car parking is inappropriate development in the Green Belt, which should not be approved except in very special circumstances. Policy further states that the aim is also achieved by making alternative provision for airport-related car parking, while preventing an over-provision that would discourage the use of alternative modes of travel to and from Bristol Airport. At present the LPA does not support any “alternative provision for airport related car parking” and in fact actively takes enforcement action seeking to prevent it, even in existing car park areas of existing facilities (Appendix 2 – Waggon and Horses).

8. The LPA were asked to consider off airport car parking provision by Backwell Parish Council in March 2020. There was significant concern locally that the airport holds a monopoly that is prejudicial to the local rural economy. The LPA committed to reviewing off airport car parking provision in the Local Plan process on 29 May 2020. No further work has been carried out by the LPA on the matter since then that has been discussed publicly. (Appendix 3). The LPA did, however, author an internal discussion document named “3aED12 explanatory note on off-site parking”. (Appendix 4). This demonstrates that policy has become increasingly restrictive of OACP since 2004 and does not support any OACP provision unless associated with a hotel or overnight stay. It has not been updated since 2015 despite the meeting being held in June 2020. No minutes of the meeting were made available. The basis of the Policy was predicated on the planning balance between allowing an OACP site and ensuring

that doing so does not undermine the ASAS. No justification is provided for OACP not in the green belt other than a historical and unevidenced position by the LPA that Weston Super Mare has no suitable sites available to deliver such a scheme.

9. The 2012 CAA Passenger survey indicated that between 5 and 10% of passengers may be using OACP. The BAL Parking Demand Survey 2018/2019 and recent update all refer to OACP not being within their knowledge but the BAL need assessment purports to include off site provision numbers. The original study sets out at p.31 that; *“the reduction in the proportion of customers who use unauthorised off-site providers is a key aim of the construction of additional car park capacity”*. The latest update shows need calculated as exceeding provision prior to the consented 10mppa let alone the proposed 12 mppa. BAL confirm an unmet Parking Demand arises by March 2022 (p.18 2020 Parking Demand Study). BAL also assume a reduction of OACP availability in the winter. No evidence to support these assumptions has been disclosed. OACP would operate 24/7 year round as the airport does. The LPA hold historical evidence (submitted during a historical attempt to use an Article 4 notice to prevent use of the Permitted Development Rights under which many OACPs operate), that demonstrate the contribution to the rural economy that the OACP sector create in terms of jobs and businesses. It appears this evidence has been overlooked by the parties in this process. The LPA accepted the significant loss of employment would be a factor in the proposal and the Article 4 notice was withdrawn. I confirm that over 140 people are employed by the operators I am aware of with a parking spaces total of approximately 2500 spaces. Effectively, BAL seek to retain the monopoly they hold on airport parking at present and the LPA have failed to address it at policy level.

10. It is clear across all the development plan documents that development in the Green Belt will not be approved except in very special circumstances. Prevailing development plan policy seeks to protect the Green Belt from inappropriate development as it is, by definition, harmful.

11. This is further reiterated in the NPPF which notes that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

12. Within the application BAL propose building their additional parking directly in the virgin Green Belt to provide approximately 2,700 spaces across 5.1 hectares. This was to follow the extension of the use of an existing “seasonal” car park – also in the Green Belt. BAL have not implemented the consented multi storey car park on the Site, BAL plead poverty and customer preference for level parking to justify more tarmac on the Green Belt. Perhaps the biggest challenge for airports is the fact that significantly improved surface access could present a fundamental challenge to their business models.

13. Bristol Airport and passenger numbers have grown by over 40%, from 5.8 mppa in 2011 to 8.2 mppa in 2017. Application 18/P/5118/OUT proposed a further 50% growth to 12 mppa, with an overall ambition to have 20 mppa. BAL states that the current airport car parking capacity is running at 95%. This is with passenger numbers at 8.2mppa and demonstrates that there is insufficient parking for the already consented 10mppa, let alone the 12mppa applied for. It is clear that to increase passenger numbers, further airport car parking spaces will be required.

14. Even though application 18/P/5118/OUT was refused Bristol Airport can still expand by an additional 1.8 million passengers a year under the existing consent. No parking has been identified to meet this need. It is considered that BAL have vastly understated their parking needs throughout their planning history and that there will be more to come. In addition, no assessment of the current off site airport parking operations has been included in the calculations provided by the airport yet I am aware that the LPA were yet again proposing an Article 4 direction last year to prevent the local landowners providing parking. In the absence of an assessment of the other airport parking in the area being provided, BAL cannot with any certainty provide a realistic assessment of the parking arising from their operation of the airport.

15. The Development Plan Proposals Map defines an inset that excludes the northern side of Bristol Airport's operation area from the Green Belt. However, land to the south of the existing terminal building, including the runway and the existing Silver Zone long stay car parking area, as well as the A38, is located in the Green Belt.

Policy CS6 specifically relates to North Somerset's Green Belt and states the following:

- "Further amendments to the Green Belt at Bristol Airport will only be considered once long-term development needs have been identified and exceptional circumstances demonstrated."

16. The supporting text to the policy builds upon this and notes at paragraph 3.94 that a key feature of Green Belts is their permanence and they are intended to be a long-term designation. It is acknowledged that the changes to the Green Belt through the Replacement Local Plan (2007) and the absence of any need for large scale further revisions to either the general extent of detailed boundaries of the Green Belt mean that no changes to the Green Belt are proposed in the Core Strategy.

17. Whilst Bristol Airport is noted as being an existing strategic development constrained by the Green Belt, the document states that any further expansions to the inset would be premature in advance of exceptional circumstances being demonstrated through evidence regarding future expansion and its land use implications. This refused application did not demonstrate exceptional circumstances to support the expansion of the parking provision into the green belt.

18. The BAL Planning Statement has assessed the proposed Silver Zone extension as inappropriate development:

“When assessed against these criteria, the proposed extension to the Silver Zone car park (Phase 2) is considered by BAL to be ‘inappropriate’ development within the Green Belt whilst the operational change to Phase 1 would represent a departure from an existing permission and could be also be deemed to be ‘inappropriate’.”

It is agreed that the proposed Silver Zone car park extension is considered to be inappropriate in the Green Belt.

19. Applications in the Green Belt must pass a Sequential Test. The Sequential Test explores all other options and sites for the same use, and if no other sites are viable or available then the site passes the Sequential Test as no other site could accommodate the use. The Sequential Test approach used by BAL is set out in Chapter 5 of the ‘Parking Strategy’ under the heading ‘Review of Potential Car Parking Locations’. The overarching approach is as follows:

- Sites within the Green Belt inset;
- Strategic park and ride locations remote from the airport including land outside the Green Belt;
- Sites within the airport site but outside the Green Belt inset;
- Sites in Green Belt locations contiguous to the airport site.

20. Chapter 5 sets out the following:

“The aim of the sequential approach outlined above is to ensure that all potential development options are appraised before moving onto the next area of search in the sequence. The approach ensures that BAL’s operational land within the Green Belt inset is maximised (within operational requirements).”

21. This methodology is agreed with and is in compliance with Local Planning Policies, the NPPF and PPG. The hierarchy as set out accurately reflects where BAL should look to place additional airport car parking. The workings of the Sequential Test mean that each tier must be assessed before a new tier is moved to. As an example, if suitable provision could be found in tier 2 it would be inappropriate to then propose a site in tier 3 or 4.

22. The rationale behind construction within the Green Belt is agreed with. Further development of multi-storey car parks within the Green Belt inset would have a ‘likely significant’ visual impact on residential receptors along Downside Road (and potentially further reaching views into the Green Belt).

23. The economic case is also noted; multi storey car parking is economically unviable and also fails to provide for the identified need of low-cost parking. The Sequential Test identifies a justifiable concern that failure to provide low cost parking

will mean more unauthorised off-site provision and more on-street car parking. Setting aside one of my earlier points that much off site parking is lawful not unauthorised, the existence of an appropriate Park and Ride site outside the Green Belt would wholly negate the BAL position.

24. The LPA did carry out a basic investigation as to whether to consider off site Park and Ride facilities after the submission by another local landowner for an off site parking operation adjacent the M5. The LPA contacted South Gloucester Council in an attempt to identify land at Avonmouth for a Park and Ride but SGC, whilst supporting the concept of a Park and Ride, could not support the suggested site (Appendix 5 – email Neil Underhay)

25. BAL has undertaken a ‘two step’ process to identify potential off-site parking locations, this is as follows:

- Assessment of an initial longlist of identified sites which could potentially fulfil demand requirements using pre-defined selection criteria to identify a shortlist of potential sites; and
- More detailed review of the strengths and weaknesses of shortlisted sites in order to identify any possible preferred options.

The assessment of the shortlisted sites is included as Table 5.4 of the BAL Parking Strategy. The relevant part is replicated below as Figure 4.2.

Site	Description	Strengths	Weaknesses
M5 Junction 21	Greenfield site just off M5 J21	Developable site just off major motorway M5	Possibly a limited catchment area as it is located near Weston-super-Mare.

Figure 14.2

26. Paragraphs 5.4.11 to 5.4.14 of the Parking Strategy summarise the findings of the short list as follows:

“The analysis of the 12 shortlisted sites above has identified a number of constraints that affect their deliverability including (inter alia) distance from the airport (which would affect passenger experience and may undermine uptake), the rural nature of the local road transport network (which means that the operational viability of these locations is marginal), high land prices, availability and the need for remediation. Further, the anticipated nature of off-site car parks assumes that cars would be self-parked; this would require more land than an operation involving block parking such as that currently provided in the Silver Zone.

As a result of the factors described above, it is concluded that a remote, off-site option is unlikely to be achievable at 12 mppa (it should also be noted that three of the shortlisted 12 sites are within the Green Belt in any case).

As there are presently no realistic off-site park and ride sites outside of the Green Belt that can effectively serve a 12 mppa capacity airport, off-site options have not been taken forward as part of the preferred car parking solution."

27. The reasons for BAL discounting airport parking off site are summarised as follows:

- Limited catchment area;
- Distance from airport;
- Rural nature of transport network;
- High land prices;
- Need for remediation; and
- Self-parking so requires more land.

The application at Heathfield Park is available, appropriate and can be delivered swiftly once consent is granted. The operator is confident in its success and has significant experience to back that view. The parking provision will be block parking / valet parking as at the silver zone allowing for maximum density, there is no need for land remediation works on the site. The offer for onward transmission to the airport is comparable to that offered by BAL from its car parking areas. At no time has BAL contacted the operator or myself to discuss the operation proposed to inform their erroneous assessment.

28. In the BAL Planning Statement, it is accepted that:

"Very special circumstances' must be demonstrated to justify those components of the Proposed Development that are located in the Green Belt and deemed to be inappropriate development."

29. While setting out a host of economic and social reasons for the airport expansion, the BAL Planning Statement states the following as its very special circumstances for Green Belt Car Parking:

"With specific regard to car parking in the Green Belt, these very special circumstances also include the nature of the demand for car parking and the lack of alternative suitable sites (as demonstrated through the application of the sequential approach outline above)."

ALTERNATIVE SITE DETAILS

30. The site is located off of the A370. The site itself is mostly on land consented for uses in association with the neighbouring Moorland Park Gypsy Caravan Site.

Under 11/P/1937/F consent was granted for; “Change of use of land and engineering works, to include alterations to the level of the land, to provide an equestrian centre, to include menage, jumping/training areas, trap racing track, paddocks and lake”. This area of the land is therefore categorised as brown field land in the open countryside. The area to the road frontage is classified as open countryside.

31. The site is located within Flood Zone 3a and 3b. Whilst the site benefits from flood defences, a FRA and flood mitigation programme has been included to ensure no adverse impact arises on flood storage from the provision of parking spaces. Car parking is also considered a ‘less vulnerable use’ and, as such, the proposal is acceptable at this location subject to appropriate use of permeable materials and drainage strategy. It has been confirmed by drainage engineers that the site contains suitable flood protection and the IDB do not object.

32. Access is via the A370 with highways consultants confirming that the capacity at Junction 21 and adjacent the road access junction is suitable for the intended use. Highways England do not object to the proposal.

33. My client is one of over 20 local parking operators and has operated off airport parking for many years across a range of sites using agricultural permitted development rights and has significant experience in the sector. Mr Pearce owns land suitable for the alternative scheme and can deliver the alternative scheme as soon as approved. The application was submitted 26 June 2020 but not registered by the LPA until February 2021. It should have been determined by now but has not been. Mr Pearce is proposing to accommodate the additional airport car parking at a site near to J21 of the M5 on the A370. This will remove existing pressure from the surrounding roads while safeguarding Green Belt land, so the airport does not have to expand into it. Mr Pearce has submitted the relevant planning application and EIA screening / scoping has been carried out. This site is not in the Green Belt and is mostly designated as brownfield land with some former agricultural elements of open countryside.

34. The offer will be valet parking with eco-friendly buses operating from the site. There will be a bus service operated every 20 minutes from the car park, replacing thousands of cars with between 3 and 5 buses every hour, varying according to time of day and changes in passenger demand.

35. The site provides a comparable travel time for airport passengers coming from the southwest (which is identified as the major growth route). It will also be similar in cost to the Silver Zone car parking, giving airport users a low-cost car parking option (which the airport has stated is in high demand). The thousands of cars removed from the road will be replaced by between 3 and 5 ‘green’ busses per hour, improving traffic and congestion and air quality.

36. The criteria of the BAL Sequential Test (Parking Strategy Appendix A) are reapplied to the proposed site. Figure 5.1 in our statement of case demonstrates the findings.

The proposed site scores high on all elements apart from distance (which is medium) contrary to the BAL assessment. In assessing the short list, the BAL Parking Strategy gave the following weaknesses to the site at J21:

- “Possibly a limited catchment area as it is located near Weston-super-Mare”

37. The location is not considered a weakness as the site is close to J21 of the M5 so it can cater for travellers heading to the airport from the South West and via the National Motorway Network, is easily accessible from throughout the UK. This is a major strength as it takes the cars off the road shortly after they leave the motorway and is on a logical route into the airport (therefore avoiding deviation of journey).

38. It has been demonstrated that the Sequential Test provided by BAL for application 18/P/5118/OUT was flawed in its assessment of alternative provision. Airport car parking is available, deliverable, viable and provides a comparable service to the existing Silver Zone car parking.

Parking near J21 also provides the major additional benefits of:

- Not being in the Green Belt
- Removing traffic destined for the airport from North Somerset’s A roads.

39. The BAL Parking Strategy set out a hierarchy for its site search. All sites in each tier must be exhausted before the next tier can be considered acceptable. The alternative site is within tier 2 and the proposed expansion into the Green Belt is within tier 4.

40. Therefore, any proposal to extend the airport car parking Silver Zone fails the Sequential Test and, as a result, the very special circumstances required to build in the Green Belt.

41. The Silver Zone extension that was proposed by BAL failed its own Sequential Test. It also fails the test of very special circumstances, so any further attempt to build in this location would similarly fail to adhere to planning policy.

42. The proposed alternative site is available now and work can begin as soon as a planning application is approved. The application was submitted in June 2020 and additional information submitted since then, including an EIA application for screening (September 2020) is with the LPA for determination under reference 20/P/1438/FUL and 20/P/2082/EA2.

43. Bristol Airport can expand by 1.8 million passengers without any further consent and seeks consent to expand by a further 2mppa but its carparks run at 95% capacity; room must be found for more parking.

Appendix 1 – The Forge Enforcement – LPA enforce against hotel operator parking” with accommodation”.

Appendix 2 – The Bungalow Inn / The Wagon and Horses - enforcement against use of a redundant pub car park

Appendix 3 - request from Backwell Parish Council to consider allowing OACP

Appendix 4 - 3aED12 explanatory note on off-site parking / cover email

Appendix 5 – 2019 investigation by LPA of OACP site at Avonmouth