

**TOWN AND COUNTRY PLANNING ACT 1990**  
**BRISTOL AIRPORT**  
**DEVELOPMENT OF BRISTOL AIRPORT**  
**TO ACCOMMODATE 12 MILLION PASSENGERS PER ANNUM**

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**OPENING SUBMISSIONS**  
**ON BEHALF OF**  
**BRISTOL AIRPORT LIMITED**

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**Introduction**

1. *“High quality infrastructure is crucial for economic growth, boosting productivity and competitiveness. More than this, it is at the centre of our communities. Infrastructure helps connect people to each other, people to businesses, and businesses to markets, forming a foundation for economic activity and community prosperity.”*<sup>1</sup>. This statement is one of the foundation stones of the Government’s ‘Build Back Better’ strategy. It is key, also, to the concept of ‘levelling up’ the regions.
2. Infrastructure is also, however, a form of development on which we nearly all rely, and on a daily basis. Just about everyone in this room will have used roads and rail, will have flicked a switch on the wall and expected the lights to come on, will expect a gas boiler to fire up, will have relied on water and waste water facilities. We all use such infrastructure and yet for each of these forms of development there will be local residents who live near the road, close to the rail line, who overlook the power station, wind turbine or overhead line, have land crossed by a high-pressure gas main, or who have a house near a pumping station or sewage treatment works. For each of those forms of development, however, society draws a balance – a balance between the wider public good and the local impact. Indeed, each of us relies on that balance being drawn in favour of infrastructure for so many of the things that we take for granted in our everyday lives.
3. Air travel is no different, it brings social and economic benefits to millions of people every year who choose to fly through airports. Government policy continues to stress that *“everyone*

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<sup>1</sup> ‘Build Back Better’ (CD11.10 p.31)

*should continue to have access to affordable flights, allowing them to go on holiday, visit family, and do business”.*<sup>2</sup> But air travel also brings local impacts. It is the function of the planning system to resolve such balances within the framework of the law and policy; that is why we are all here.

4. The Government, however, has made clear the importance it attaches to airports and their expansion. In February 2020 the Secretary of State for Transport made the following comment in a Statement to Parliament:

*“Our airports are national assets and their expansion is a core part of boosting our global connectivity. This in turn will drive economic growth for all parts of this country, connecting our nations and regions to international markets, levelling up our economy and supporting a truly global Britain.”*<sup>3</sup>

5. There may be some who do not agree with Government policy on this, or a range of other matters, but that is for Parliament and the merits of Government policy are not a matter of debate at this local planning inquiry. The Government’s strategy for aviation includes its ‘Making Best Use’ (‘MBU’) policy<sup>4</sup>. As Government made clear last week: *“Beyond the horizon The future of UK aviation: Making best use of existing runways (2018) and Airports National Policy Statement: new runway capacity and infrastructure at airports in the South East of England (2018) are the most up-to-date policy on planning for airport development. They continue to have full effect, for example, as a material consideration in decision-taking on applications for planning permission.”*<sup>5</sup> (emphasis added). Government could not have been clearer.
6. This policy has been arrived at, and restated, in full knowledge of the UK’s climate change obligations and, in particular, the 2050 ‘net zero’ target as set out in s.1(1) of the Climate Change Act 2008 and, indeed, the successive five-yearly carbon budgets, including the Sixth Carbon Budget. Having had regard to the advice of the Committee on Climate Change (‘the CCC’), the Government has just set out its policy in ‘Decarbonising Transport: A Better Greener Britain’<sup>6</sup> and in its ‘Jet Zero consultation’ document<sup>7</sup> and that policy does not include directly limiting aviation growth<sup>8</sup>; in other words, policy has not imposed a cap on airport capacity and it does

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<sup>2</sup> Decarbonising Transport (2021) (CD[]), Foreword by the Secretary of State for Transport, page 8.

<sup>3</sup> CD6.80

<sup>4</sup> CD6.4

<sup>5</sup> Jet Zero consultation (CD[] fn39 p.51)

<sup>6</sup> CD[]

<sup>7</sup> CD[]

<sup>8</sup> See the Jet Zero consultation para 3.41 and the Jet Zero evidence and analysis (CD[]) scenarios (section 3) that assume 58-60% growth in passenger numbers from 2017-2050.

not constrain MBU. Government does recognise that encouraging the move to ‘net zero’ aviation may require carbon prices to rise and have some indirect effect on demand growth<sup>9</sup>; but that is already foreshadowed in Bristol Airport Limited’s (‘BAL’) forecasting evidence and allowed for it in its Core Case and Slower Growth forecasts.

7. It is clear, however, that Government is absolutely committed to meeting its ‘net zero’ in 2050 target and its Decarbonising Transport Plan<sup>10</sup> sets out the route by which it seeks to achieve ‘net zero’ transport, including for aviation. Central to this issue, however, is the very clear Government policy position that carbon emissions from air traffic are a matter for national policy, whilst decisions on effects which impact local individuals such as noise and air quality should be considered through the appropriate local planning process<sup>11</sup>. The framework for controlling aircraft emissions at a national level has been set out in our evidence and includes the Sixth Carbon Budget, the UK Emissions Trading Scheme (‘ETS’) and the UN’s Carbon Offsetting and Reduction Scheme for International Aviation (‘CORSIA’); together with such other measures as Government may deem necessary. We recognise here too that there are those who do not agree with the Government’s strategy on these issues but, again, the merits of such policy are not matters for this inquiry; the Inspectors have not been asked to advise Government on its climate change strategy.
8. The Jet Zero consultation also reiterates that *“The government is clear that expansion of any airport must meet its climate change obligations to be able to proceed.”*<sup>12</sup> (emphasis added). Whilst aviation’s emissions are a matter for Government and national policy and action, it is in relation to the airport’s own emissions that BAL sets out its ambitious targets to become ‘carbon neutral’ by 2021 and then carbon ‘net zero’ by 2030. BAL has gone further and has set out the mechanisms by which it will achieve these targets in its Carbon and Climate Change Action Plan (‘CCCAP’). Indeed, Bristol Airport’s climate change targets are sufficiently ambitious to actually merit specific mention in the Government’s ‘Decarbonising Transport’ Plan<sup>13</sup>. It is important to note, therefore, that expansion of the airport does not cut across the climate change ambitions that we all share, it is consistent with, and complements, them.
9. As the MBU policy indicates, however, there are local issues that are properly a matter for consideration at the local level and these include, noise, air quality, highways and, in this case,

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<sup>9</sup> Jet Zero consultation (CD[] para 3.44)

<sup>10</sup> CD[]

<sup>11</sup> CD6.4 paras 1.9-1.13

<sup>12</sup> Jet Zero consultation (CD[] fn39 p.51)

<sup>13</sup> CD[] p.121

Green Belt policy. Our evidence will set out our case on these impacts – how in fact they are relatively modest and how we have sought to mitigate them appropriately. This will be an important part of the inquiry and we will set out our broad position on these issues later in this opening.

10. Whilst it is accepted that there may be impacts for some people – this is nearly always the case for infrastructure developments – there are also benefits, including the socio-economic benefits to those who wish to travel through the airport for leisure, to visit friends or family in other countries, to study abroad or return home from studying in the UK, and those who travel for business. These are important benefits in a modern, multi-cultural and global country; to artificially restrict the ability of individuals to fly by deliberately constraining capacity (as some have suggested) would have profound implications in a free society.
11. Airports also bring other socio-economic benefits for those who work there or whose jobs benefit from the spending generated by the airport. The jobs at the airport are good jobs that pay well compared with local and sub-regional comparators and provide a range of opportunities at different levels of seniority and qualification. This is important; parts of Weston-super-Mare and South Bristol are genuinely areas of high deprivation and the airport lies almost precisely equidistant between them. Council Officers recognised this and the importance of it; members apparently not. How, for example, can it now be the Council's case that not creating new jobs at Bristol Airport does not matter because they will simply be 'displaced' to Heathrow or Birmingham or some other airport. That is a desperately bleak strategy for the unemployed or under-employed people of this town and an apparent reflection of members' indifference to the local opportunities for renewal and growth that the airport represents.
12. This brings us, then, to the way in which the Council determined this application.

### **North Somerset Council's decision and Reasons for Refusal**

#### Context and Nature of the Application

13. In 2011 North Somerset Council ('NSC') granted outline planning permission to allow the capacity of Bristol Airport to increase from 7.2 to 10 million passengers per annum ('mppa') (Application Ref. 09/P/1020/OT2) ('the 2011 Permission'). That application was made against the backdrop of consistent long term growth in passenger numbers over the previous ten years,

increasing from 2.3 mppa in 2000 to 6.2 mppa in 2008.<sup>14</sup> The 2011 Permission allowed major development at the airport, which included 30 separate elements of physical development.

14. Today, the airport continues to operate under conditions imposed on the 2011 Permission. Of particular relevance for the purposes of this appeal are the following:
  - a. Condition 65 limits the passenger throughput of the airport to 10 mppa;
  - b. Condition 38 limits night time flights (namely, those between 23:30 and 06:00 hours) to 4000 a year with a maximum of 3000 flights during British Summer Time and 1000 movements in British Winter Time;
  - c. Condition 9 restricts the use of the Silver Zone car park extension known as 'Cogloop' to seasonal use between May and October each year;
  - d. Condition 33 prevents the use of auxiliary power units and allows for only tow on and push back on aircraft stands 38 and 39;
  - e. Condition 7 prevented the use of the seasonal car park until the first phase of the consented multi-storey car park ('MSCP') was in use.
15. In 2016, BAL submitted two planning applications to revise the phasing of the 2011 Permission, one of which (Application Ref. 16/P/1455/F) sought to amend condition 7 (above). This amendment allowed a re-phasing of the delivery of MSCP, such that the seasonal car park could come into use prior to the operation of the MSCP. The second application (Application Ref. 16/P/1486/F) enabled BAL to operate phase 1 and phase 2 of the Green Belt surface car park before 9 mppa was reached, whilst retaining the seasonal restriction. Both applications were granted.
16. BAL's application for planning permission for the currently proposed development was submitted in December 2018, following pre-application engagement with NSC (Application Ref. 18/P/5118/OUT). The application was accompanied by drawings and reports, including an Environmental Statement ('ES'), the scope of which was agreed with NSC under application reference 18/P/3502/EA2.<sup>15</sup>

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<sup>14</sup> CD4.1a.

<sup>15</sup> NSC Committee Report (CD4.11), p.5.

17. The application seeks permission to amend conditions 9, 33, 38 and 65 identified above to allow the airport to grow to 12 mppa. To enable the increase in passenger numbers, the following associated physical development is proposed.
18. BAL proposes to extend the passenger terminal on its west and southern sides with canopies over the forecourt of the main terminal building, erect a new walkway and pier with vertical circulation cores and pre-board zones and provide a new service yard and an acoustic fence. BAL seeks to increase the provision of car parking at the airport through the erection of a multi-storey car park and extension of the Silver Zone surface level car park, with associated enhancements to the internal road system and layout. The proposed development also seeks some small enhancements to airside infrastructure through the construction of a new eastern taxiway link and taxiway widening and fillets. With regards to off-site development, the Appeal Proposal includes carriageway and junction improvements to the A38.
19. In the context of airport expansions, the proposed development is by all accounts relatively minor. If permitted, the proposed development would enable the airport to grow to serve 12 mppa from the existing runway, representing an increase in permitted capacity of 20%.

#### Officers' Report

20. Following the submission of BAL's application in December 2018, BAL worked extensively with NSC Officers to address matters of concern and provide additional information where required.
21. Regulation 4(5) of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 ('the 2017 EIA Regs')<sup>16</sup> states clearly that *"The relevant planning authority or the Secretary of State must ensure that they have, or have access as necessary to, sufficient expertise to examine the environmental statement."* This is particularly important where, as here, many of the issues are highly technical. NSC instructed specialist external consultants, Jacobs, in the fields of forecasting, socio-economic impacts, highways, carbon and climate change, noise and vibration, to advise them on the technical aspects of BAL's application. The consideration of the application by Officers and their consultants resulted in two requests for further information by NSC under regulation 25 of the 2017 EIA Regs, which BAL provided detailed responses to in April and October 2019 respectively<sup>17</sup>.

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<sup>16</sup> CD5.5

<sup>17</sup> CD3.6.1 – 3.6.23

22. Through this process, BAL and NSC Officers reached full agreement on the appropriate planning conditions to be imposed and the proposed Heads of Terms for a section 106 agreement prior to the determination of the application.
23. NSC Officers, assisted by their technical advisers, produced a Committee Report running to 235 pages which provided detailed advice to members of NSC's Planning and Regulatory Committee<sup>18</sup>. The Report considered in detail all the planning issues that arose, including the socio-economic benefits and environmental impacts of the proposed development. The Report recommended that the application for outline planning permission be approved, subject to the completion of a section 106 agreement and referral to the Secretary of State. The Report was made available on 29 January 2020.

#### The Decision

24. Regulation 26(1) of the 2017 EIA Regs<sup>19</sup> provides as follows (emphasis added):
- (1) When determining an application or appeal in relation to which an environmental statement has been submitted, the relevant planning authority, the Secretary of State or an inspector, as the case may be, must—
- (a) examine the environmental information<sup>20</sup>;
- (b) reach a reasoned conclusion on the significant effects of the proposed development on the environment, taking into account the examination referred to in subparagraph (a) and, where appropriate, their own supplementary examination;
- (c) integrate that conclusion into the decision as to whether planning permission or subsequent consent is to be granted; and
- (d) if planning permission or subsequent consent is to be granted, consider whether it is appropriate to impose monitoring measures.
25. The Planning and Regulatory Committee meeting at which the application was considered was held on 10 February 2020<sup>21</sup>. The Case Officer made a presentation of the application to Committee members who considered the application. Contrary to NSC Officers' considered

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<sup>18</sup> CD4.11

<sup>19</sup> CD5.5

<sup>20</sup> That is, reg.2(1), the environmental statement, including any further information and any other information, any representations made by any body required by these Regulations to be invited to make representations, and any representations duly made by any other person about the environmental effects of the development.

<sup>21</sup> The minutes of the meeting are available at CD9.86.

recommendation, and without the benefit of any additional expert advice whatsoever, the Committee resolved to refuse planning permission for the proposed development. At the date of the Committee meeting, seven initial reasons for refusal were identified, none of which had any apparent basis in the evidence summarised in the Officers' Report.

26. BAL understands that a legal opinion<sup>22</sup> (dated Tuesday 4 February 2020) drafted by counsel instructed by the Parish Councils Airport Association ('PCAA') and Bristol Airport Action Network Coordinating Committee ('BAANCC') was sent directly to some members of NSC's Planning and Regulatory Committee later that same week and before the Committee meeting on the following Monday 10 February 2020. The opinion explained that members of the Committee would be entitled to lawfully refuse the application, notwithstanding the recommendation of NSC Officers, and provided suggested reasons for refusal. These included key issues such as greenhouse gas emissions, biodiversity and the Green Belt, on which NSC had received its own expert advice leading Officers to recommend approval. The opinion further explained<sup>23</sup> that NSC may be vulnerable to a legal challenge if members were to approve the application.
27. This opinion was not sent to BAL as the applicant, nor directly to NSC Officers, however it is understood that NSC Officers obtained a copy of the opinion later during the week before the Committee meeting on 10 February and subsequently passed a copy to BAL. BAL was completely taken by surprise and was not aware of the status or distribution of the opinion and was afforded no adequate opportunity to respond on the substance of the points made before the consideration of its application by the Committee.
28. A further Committee meeting was held on 18 March 2020 at which the decision to refuse permission was ratified and the final reasons for refusal provided. NSC Officers produced an updated Report for the meeting<sup>24</sup>, which considered the Committee's proposed reasons for refusal. In so doing, the Report reaffirmed Officers' recommendation that permission should be granted for the proposed development. At that meeting, the Committee confirmed the decision to refuse planning permission and issued five reasons for refusal concerning the environmental impact of the proposed development in respect of noise levels, air quality, traffic, off-airport car parking, greenhouse gas emissions, the harm to the Green Belt and the inadequacy of public transport provision.

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<sup>22</sup> CD19.11

<sup>23</sup> CD19.11 para 33

<sup>24</sup> CD4.13



29. It is significant that all of these matters had been the subject of detailed consideration by Officers in the Committee Report, who in turn had benefitted from independent expert advice. The proposed development had been found by Officers to be acceptable. In contrast, the Committee received no additional technical input on any of these matters and yet found the proposed development to be unacceptable.
30. As such, the Committee's decision was not only contrary to the considered recommendation of NSC Officers, but constituted a sweeping rejection of the detailed evidence put forward by BAL in circumstances where the Committee had no proper alternative technical advice that could provide a rational basis for doing so. It seems difficult to reconcile this decision with NSC's clear duties under regulation 26(1) above. Members might have called for further technical advice and given BAL an opportunity to comment on it; they did not, they simply rejected the technical advice and instructed Officers to prepare an updated report<sup>25</sup> (considering the Committee's initial reasons for refusal. The Committee then resolved to adopt the five reasons for refusal (above).
31. We note that Jacobs, which advised NSC in relation to the application in the fields of climate change, noise and transport, are no longer acting for NSC in these fields. It is reasonable to infer, therefore, that both Officers (who are not to be called), and the relevant members of the technical team that contributed to the Officers' recommendation in respect of the application (who are not witnesses), disagree with the case now being put forward by NSC.
32. That this is the case is reflected in the fact that the evidence presented by NSC bears little resemblance to the consideration of the matters presented in the Officers' Report<sup>26</sup>. Indeed, NSC's position discloses an apparent change of stance in respect of a number of previously agreed technical matters. One such matter is the proposed A38 junction improvements. NSC has presented transport evidence to this Inquiry that makes a substantive attack on the junction modelling carried out and seeks to demonstrate that the proposals are poorly designed and undeliverable<sup>27</sup>. This is notwithstanding the fact that these very works were designed in collaboration with NSC Officers and their technical advisers, and agreed at the time to be acceptable. Indeed, there is no reason for refusal on highway design. Similarly, the Officer's Report discloses that the methodology adopted by BAL for each chapter of the ES was considered to be appropriate and consistent with policy. NSC's evidence now raises a wide

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<sup>25</sup> CD4.13

<sup>26</sup> CD4.11

<sup>27</sup> Proof of Evidence of Mr Colles, para 4.19.4 (NSC/W4/1).

range of issues relating to the methodology adopted, none of which were foreshadowed in any way by the Officers' Report.

33. BAL feels that it has been treated unfairly by the planning system and put to substantial cost, and that NSC's behaviour has been both wrong and, indeed, unreasonable.

**The Inspectors' Case Management Conference 1 Issues**

34. At the first Case Management Conference ('CMC1'), which was held on 8 March 2021, the Inspectors identified the following seven main issues:<sup>28</sup>
- a. The acceptability of the proposed development with regard to adopted and emerging local and national policy;
  - b. The extent to which the proposed development would harm the openness of the Green Belt and/or conflict with its purposes and the extent to which the harm to the Green Belt by reason of inappropriateness, and any other Green Belt harm, is clearly outweighed by other considerations, including very special circumstances;
  - c. The effects of the proposed development upon sustainable transport objectives, the highway network, highway safety and parking provision;
  - d. The effect of air pollution associated with the proposed development on health and quality of life;
  - e. The effect of noise associated with the proposed development on health and quality of life;
  - f. The impact of the proposed development on greenhouse gas emissions and the ability of the UK to meet its climate change obligations; and
  - g. The extent to which the proposed development will deliver economic, social and/or other benefits.
35. The remainder of these opening submissions is structured around the Inspectors' CMC1 issues, however the order in which these issues are taken differs to that adopted in the Inspectors' CMC1 Note. As these issues draw on the major themes from NSC's reasons for refusal, in addressing those issues, these submissions seek to respond to each reason for refusal.

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<sup>28</sup> Inspectors' CMC and PIM Note, para 5.

36. It is notable that a number of matters on which parties to the appeal have presented evidence were not identified by the Inspectors as main issues at CMC1. This reflects the fact that these issues have at no time formed part of NSC's reasons for refusal. These include matters such as the landscape and visual impact of the proposed development in relation to the Mendip Hills Area of Outstanding Natural Beauty ('AONB'), the impact on the North Somerset and Mendip Bats Special Area of Conservation ('SAC'), and the adequacy of the design of the A38 improvements. BAL has, in any event, sought to respond to the evidence produced on these topics through rebuttal evidence and technical notes where appropriate. We note, however, the increased breadth of issues on which BAL has been required to provide evidence and the apparent departure from the scope of the reasons for refusal.

### **Air Traffic Forecasting**

#### The Role of Forecasting

37. Air traffic forecasting is concerned with the assessment of future demand for air travel. Demand is driven by population growth, economic growth, disposable income and the cost of travel, in addition to various other factors.<sup>29</sup>
38. The role of forecasting in the context of this appeal is to identify that Bristol Airport will reach 12 mppa (the proposed new passenger cap), the broad timescale over which this threshold is expected to be reached, and what the characteristics of the airport at 12 mppa are likely to be.<sup>30</sup> The outputs from this modelling underpin the results of the environmental assessment of the proposed development.
39. In this regard, forecasting therefore underpins all of the main issues identified by the Inspectors at CMC1.

#### Government Aviation Policy

40. Current Government policy on aviation is contained in the following documents: Aviation Policy Framework ('APF') (March 2013)<sup>31</sup>, Beyond the Horizon - The Future of UK Aviation: Making Best Use of Existing Runways (June 2018) ('MBU')<sup>32</sup> and the Airports National Policy Statement: New

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<sup>29</sup> Proof of Evidence of Mr Brass (Forecasting), para 2.2.1 (BAL/1/2).

<sup>30</sup> Proof of Evidence of Mr Brass (Forecasting), para 2.9.3 (BAL/1/2).

<sup>31</sup> CD6.1

<sup>32</sup> CD6.4

Runway Capacity and Infrastructure at Airports in the South East of England (June 2018) ('ANPS')<sup>33, 34</sup>.

41. Since 2003<sup>35</sup>, Government aviation policy has supported a balanced approach to aviation, making best use of existing airport capacity and regional airport growth, subject to the consideration of economic and environmental impacts. The Government is strongly supportive of long-term, sustainable, aviation growth to support the economic and social benefits that it brings.

42. The APF, which was published in March 2013, recognises the role of aviation in economic growth. It states as follows:

*"The Government's primary objective is to achieve long-term economic growth. The aviation sector is a major contributor to the economy and we support its growth within a framework which maintains a balance between the benefits of aviation and its costs, particularly its contribution to climate change and noise."*<sup>36</sup>

43. It further notes that,

*"One of our main objectives is to ensure that the UK's air links continue to make it one of the best connected countries in the world."*<sup>37</sup>

44. The APF recognises the important economic role of regional airports in accommodating wider forecast growth in demand and taking pressure off London's main airports. The APF, like the Air Transport White Paper (2003) before it, acknowledges that regional airports *"play a very important role in UK connectivity."*<sup>38</sup>

45. Between July 2017 and June 2019, the Government carried out consultation on its draft future aviation policy. This included the publication of a Green Paper titled 'Aviation Strategy 2050: The Future of UK Aviation' ('Aviation 2050')<sup>39</sup>. At the present time, the Government's final aviation strategy is yet to be published. For the purposes of this appeal, therefore, extant national aviation policy is that contained in the documents identified above. What is apparent, however, is that Aviation 2050 signals the Government's intentions to continue to support

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<sup>33</sup> CD6.9

<sup>34</sup> Statement of Common Ground, para 19 (CD12.1)

<sup>35</sup> Air Transport White Paper (2003).

<sup>36</sup> Para 5.

<sup>37</sup> Para 9.

<sup>38</sup> Para 1.23 (CD6.1).

<sup>39</sup> CD6.5

regional airports making best use of their existing runways, subject to environmental considerations.<sup>40</sup>

46. The Government's latest policy for the expansion of UK airports (other than Heathrow) is contained in MBU, which was published in June 2018 and builds on the UK Aviation Forecasts 2017. It should be noted at the outset, that the High Court has expressly recognised that the legality of MBU as now "*beyond argument*".<sup>41</sup> Following the adoption of the 'net zero' target, in February 2020 the Government expressly reiterated its commitment to MBU<sup>42</sup> and its status, post the amendment to the UK's statutory climate change target, has been recognised recently by the Inspectors in the Stansted Airport appeal.<sup>43</sup> Furthermore, as stated earlier, the Government has recently confirmed its policy positions as set out in MBU and make it clear that it is to have 'full effect' in planning inquiries.

47. There are six points to note in respect of MBU<sup>44</sup>:

- a. The strategy anticipates significant growth in demand for passenger air travel over the long-term;<sup>45</sup>
- b. It is clear in confirming the Government's in principle support for airports beyond Heathrow making best use of their existing runways, taking into account relevant economic and environmental considerations;<sup>46</sup>
- c. Decisions on airport expansion proposals should be taken by local planning authorities.<sup>47</sup> The majority of environmental impacts will be taken into account as part of the local planning application process, however there are certain matters that should be considered at a national level. One such matter is the issue of carbon emissions;<sup>48</sup>
- d. The impact of the strategy was considered in both a carbon traded and carbon capped scenario. In both instances, the carbon impacts of MBU are considered acceptable;

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<sup>40</sup> CD6.5 para 3.11

<sup>41</sup> *R (Ross and (Stop Stansted Expansion)) v Secretary of State for Transport* [2020] EWHC 226 (Admin) at [115].

<sup>42</sup> Statement of Secretary of State for Transport, Grant Shapps, 2020 (CD6.8).

<sup>43</sup> The Planning Inspectorate, Appeal into the expansion of Stansted Airport, May 2021, p.5 para 24 (CD6.13).

<sup>44</sup> CD6.4

<sup>45</sup> Proof of Evidence of Mr Brass (Forecasting), Figure 5 (BAL/1/2).

<sup>46</sup> MBU (CD6.4), para 1.29.

<sup>47</sup> MBU, para 1.29.

<sup>48</sup> MBU, para 1.11.

- e. MBU is consistent with the recommendations of the Airports Commission’s Final Report<sup>49</sup> into the UK’s future airport capacity needs over the short, medium and long term, which was published in July 2015. The Commission found that it was “*imperative*” that the UK continues to grow its domestic and international connectivity during the period before the delivery of new capacity at Heathrow.<sup>50</sup> The Report recognised the “*crucial importance*” of regional airports<sup>51</sup>, and the need to make “*more intensive utilisation*” of airports outside Heathrow and Gatwick<sup>52</sup>.
  - f. The Airports Commission’s recommendation is reflected in the ANPS, which, although not of primary application to aviation developments that are not Nationally Significant Infrastructure Projects, is a material consideration in the determination of this appeal. The ANPS confirms the Government’s support for other airports making best use of their existing runways.<sup>53</sup>
48. Since the entry into force of the Carbon Budget Order 2021<sup>54</sup>, the Government has published its Decarbonising Transport Plan<sup>55</sup> and the Jet Zero consultation<sup>56</sup>. As stated earlier, the latter document expressly acknowledges that MBU and the ANPS “*are the most up-to-date policy on planning for airport development. They continue to have full effect, for example, as a material consideration in decision-taking on applications for planning permission....*”<sup>57</sup>
49. This national policy context is entirely consistent with, and supported by, the UK Government’s economic policy, which is focussed on returning the UK to economic growth as we emerge from the COVID-19 pandemic.
50. In March 2021, the Government published ‘Build Back Better: Our Plan for Growth’<sup>58</sup> (‘BBB’), which sets out a strategy for rebuilding the UK economic which sees Britain as firmly embedded in the global economy through trade, foreign investment and competition. Air travel will be needed to meet this internationally focussed vision. BBB highlights the importance of ‘levelling up’, which sees major UK cities as globally focussed and well-connected drivers of productivity.

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<sup>49</sup> CD6.11

<sup>50</sup> Para 16.40.

<sup>51</sup> Para 16.45.

<sup>52</sup> Para 16.40.

<sup>53</sup> ANPS, para 2.22.

<sup>54</sup> CD9.38

<sup>55</sup> CD[]

<sup>56</sup> CD[]

<sup>57</sup> Page 51, footnote 39.

<sup>58</sup> HM Treasury, March 2021 (CD11.10).

This is echoed in the foreword to Decarbonising Transport<sup>59</sup>, in which it is recognised that “international transport is a vital part of Global Britain.”<sup>60</sup>

51. BAL acknowledges that many people, including the witnesses of NSC and the Rule 6 parties, simply do not accept the thrust of Government policy as set out in the APF and MBU. Some seek to challenge Government policy by arguing that it is inconsistent with achieving the net zero target, or the recently published Sixth Carbon Budget. There are two points to note in this regard. First, as a matter of principle, the adoption of the Sixth Carbon Budget does not impact the status of MBU as Government policy. Unless and until Government decide to revoke or otherwise amend MBU, it remains extant policy to be applied in the determination of this appeal. The obligation to meet the five yearly carbon budgets falls on the Secretary of State. It is for the Secretary of State and Government to determine how best that obligation is met. Secondly, it is important to stress that it is not for this Inquiry to debate the merits of Government policy. The APF and MBU are matters of high level Government policy, the merits of which are not for debate at local planning inquiries; that is clear from the well-known judgement of Lord Diplock in *Bushell*<sup>61</sup>. Government’s clear policy to ‘make best use’ of existing runways is simply not ‘up for grabs’ and nor is an attack on the merits of Government policy by the backdoor of challenging ‘soundness’ or ‘weight’. The role of the Inspectors in the context of this section 78 appeal is to take proper account of extant Government policy.
52. The Government’s position on MBU, and the ‘in principle’ support for regional airports making best use of their existing runway capacity is clear. Both the MBU and the APF should be given full and significant weight in this appeal.
53. The proposed development responds to, and is in accordance with, the Government’s aviation policy. It will make best use of the existing runway at Bristol Airport, maximising the use of existing infrastructure and bringing forward investment in new infrastructure and services required to support the growth of the airport to meet forecast passenger demand. In turn, the proposed development will support regional and local economic recovery from the COVID-19 pandemic and assist in meeting the Government’s wider economic policy.

#### BAL Forecasts and Updated Forecasts

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<sup>59</sup> CD[]

<sup>60</sup> Foreword, page 8.

<sup>61</sup> *Bushell & Anor v SSE* [1981] AC 75, per Lord Diplock.

54. At the date of the planning application, BAL provided an independent validation Forecast Report<sup>62</sup> by Mott MacDonald which confirmed BAL's internal forecasts and indicated that passenger demand at Bristol Airport would reach the airport's current passenger cap of 10 mppa by 2021 and 12 mppa by 2026. Following the submission of the application, Bristol Airport handled 8.96 mppa in 2019, making it the fourth largest regional airport in the UK.
55. These forecasts have since been updated in order to account for the impact of the global COVID-19 pandemic, which has artificially and drastically suppressed aviation passenger throughput as a result of widespread travel restrictions in place for well over a year. While such measures are in place it is simply not possible to observe the level of demand in the UK market.<sup>63</sup> In order to consider the effect of the pandemic and address uncertainties associated with the rate at which demand will return, York Aviation LLP ('York Aviation') produced an updated Forecast Report<sup>64</sup> for BAL.

*Forecasting methodology*

56. The forecast model adopted by York Aviation uses a 'bottom up' approach to demand forecasting to inform the first four years of the forecast. This approach is designed to reflect both airline behaviour and underlying market demand at a route level. To inform the longer term forecast, York Aviation has used an econometric passenger allocation model to determine how the underlying passenger demand base in the broad catchment area for the airport will split between Bristol and a number of competing airports.<sup>65</sup>
57. Air traffic movements ('ATMs') have been calculated for future years by dividing the overall passenger demand forecast by a projected average number of passengers per movement, which in turn is identified from historic trends as well as airlines' likely fleet plans for Bristol Airport.<sup>66</sup>
58. As with any forecasts, there remains a degree of uncertainty surrounding the model output. The unprecedented impact of the global pandemic and associated travel restrictions means that such uncertainty is inevitably greater, particularly in the short term. It is important, however, to put any such uncertainty in context. This is not a case where BAL has simply forecast passenger throughput at the airport in 2030 at 12 mppa, but objectors are arguing that

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<sup>62</sup> CD2.3 Appendix F

<sup>63</sup> Proof of Evidence of Mr Brass (Forecasting), para 2.6.2 (BAL/1/2).

<sup>64</sup> CD2.21

<sup>65</sup> Proof of Evidence of Mr Brass (Forecasting), section 3 (BAL/1/2) and York Aviation Forecasting Report (CD2.21).

<sup>66</sup> Proof of Evidence of Mr Brass (Forecasting), para 3.1.8 (BAL/1/2).



throughput will actually be 14 mppa or even 16 mppa and that the adverse environmental effects will be much higher than assessed. In this case, BAL has proposed a passenger cap at 12 mppa; on that there is no uncertainty whatsoever. The only uncertainty, therefore, is 'when' throughput will reach 12 mppa, but once it does it will have the characteristics of the 12mppa airport as forecast by the modelling. This is a very different type of uncertainty to that explored at many previous airport inquiries.

59. In recognition of this fact, the forecast model presented in the York Aviation's Forecast Report<sup>67</sup> and the ES Addendum considers a range of different growth scenarios as follows:
- a. The Core Case, which sees passenger demand at Bristol Airport reaching 10 mppa in around 2024 and 12 mppa in 2030;
  - b. The Slower Growth Case, which sees passenger demand reaching 10 mppa in around 2027 and 12 mppa in 2034;
  - c. The Faster Growth Case, which sees passenger demand reaching 10 mppa in around 2022 and 12 mppa in 2027.
60. Notably, all of these forecasts see Bristol Airport reach 12 mppa within a reasonable timeframe between 2027 and 2034. It is not, therefore, a question of precisely when the airport reaches the 12 mppa threshold but of the broad timescale for it doing so.
61. At the present time, and in view of the current progress in relation to the lifting of travel restrictions, both BAL and NSC agree that of the three scenarios, the faster growth scenario is less likely to be realised.<sup>68</sup>

#### Core Case

62. The Core Case provides the basis for the quantification of environmental effects of the proposed development. It is common ground with NSC that the Core Case is the scenario most likely to be realised, and that it provides an appropriate basis for assessing environmental impacts.<sup>69</sup>
63. The Core Case represents a balanced view of the future market and current risks, reflecting a central view of issues such as economic growth and carbon costs. As Mr Brass explains in his

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<sup>67</sup> CD2.21

<sup>68</sup> Proof of Evidence of Mr Folley, para 4.11 (NSC/W1/1).

<sup>69</sup> Proof of Evidence of Mr Folley, para 4.11 (NSC/W1/1).

evidence, this scenario is felt to be a reasonable best estimate of when Bristol Airport will reach 10 mppa and 12 mppa.

64. Under the Core Case, the forecast air transport movements in 2030 at 10 mppa and 12 mppa respectively is 74,380 (including 63,740 commercial movements) and 85,980 (including 75,340 commercial movements). These numbers reflect on-going growth in aircraft size in line with airline fleet development plans and discussions with key airlines as regards likely deployment at Bristol Airport.

#### Sensitivities (Slower/Faster Growth)

65. The faster and slower growth cases represent a reasonable worst case scenario in terms of future growth being faster and slower than expected. The slower growth case reflects factors such as a potentially slower recovery from COVID-19, lower economic growth or adverse market conditions, such as higher carbon costs. The faster growth case reflects a more rapid bounce back from COVID-19 or faster economic growth.
66. These scenarios have been used to sensitivity test the outputs from the Core Case, which NSC agrees is an appropriate approach and in line with best practice<sup>70</sup>. In other words, they are used to determine whether a different rate of growth would have a material difference on the outputs from the forecast model, which in turn are used for the assessment of significant environmental impacts.
67. It is important to understand the nature of this sensitivity testing. The alternative growth scenarios have been used to qualitatively assess the extent to which passenger forecast outputs would be affected by slower or faster passenger growth at the airport. If those qualitative assessments had indicated a material change in effect that might lead to a different conclusion on significance, then a quantified assessment would have been undertaken; it didn't and so no such quantitative assessment was necessary.
68. Crucially, what the sensitivity testing demonstrates is that whichever growth scenario is realised, the outputs from the detailed air traffic forecasts that are used as inputs to the EIA process are unlikely to be significantly affected. This reflects the fact that, whether 12 mppa is reached in 2027 in accordance with the faster growth scenario or 2034 following the slower growth scenario, this means that the capacity will be used up slightly earlier or later than anticipated by the Core Case. In each case, the benefits and impacts may be brought forward

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<sup>70</sup> Proof of Evidence of Mr Folley, para 3.5 (NSC/W1/1).

slightly in time, or deferred slightly in time. In all other respects, however, they are not materially different such as to change significance of effect. Indeed, if growth is at a slower rate, the evidence demonstrates that any adverse environmental impacts are likely to be less significant than in the Core Case scenario. In light of this, therefore, arguments about the precise timescale within which the airport will reach 12 mppa are largely academic.

#### Inputs to EIA

69. As explained above, the outputs from the forecast modelling form inputs to the environmental assessment of the proposed development. The quantitative assessment of significant effects within the EIA is based on quantitative outputs associated with the Core Case passenger forecasts. This has been sensitivity tested against the faster and slower growth scenarios.
70. There are seven outputs from the forecast modelling that inform the environmental assessment, as follows:
  - a. Busy hour rates: A series of busy day timetables that describe the diurnal profile of ATMs and passengers arrival / departures at the airport were developed, which form inputs to assessments such as highway junction capacity;
  - b. Fleet mix: The forecasting provides an assessment of the annual fleet mix in order to inform assessments such as for noise and air quality;
  - c. 92 day summer period average daily movements: This covers the period from 16 June to 15 September each year. Together with the fleet mix, this data is used for noise modelling;
  - d. Night movements and quota count: This data was used as an input to the noise assessment;
  - e. Average range forecasts: These forecasts, which are concerned with the average flight distance of aircraft at Bristol Airport, informed the carbon assessment;
  - f. Surface origins and destinations of passengers: This information provided an input into the transport assessment and quantification of socio-economic benefits of the proposed development;
  - g. Passenger demand displacement: The level of passenger displacement to other airports provided an input into the socio-economic assessment.

71. As explained above, the analysis carried out by York Aviation demonstrates that the air forecast outputs identified above are relatively insensitive to the exact point in time at which 12 mppa is reached.

Forecasting Uncertainty and the Role of Planning Conditions

72. A major theme of the evidence of Mr Folley on behalf of NSC is that forecasting future demand for air travel is inherently uncertain.<sup>71</sup> This, it is argued, renders BAL's assessment of the environmental impacts of the proposed development unreliable.
73. One such argument arises from the announcement by Jet2 of its plans to operate from Bristol Airport from the summer of 2021. This announcement post-dated the forecast modelling by York Aviation, such that it is said that the operation of Jet2 from the airport materially changes the 2030 fleet mix. In his evidence, Mr Folley has purported to provide an "*up-to-date*" fleet mix which includes Jet2's aircraft.<sup>72</sup> This alternative fleet mix is assessed by NSC as having greater environmental impacts in terms of noise and air quality than that used in the ES and ES Addendum.
74. Mr Brass explains in his rebuttal proof, however, that Mr Folley's 'updated' fleet mix is simply wrong and, indeed, untenable.<sup>73</sup>
75. Furthermore, this debate is again largely academic. The imposition of appropriate planning conditions is capable of mitigating any uncertainty with regards the fleet mix. The imposition of an air noise contour cap and quota count limit would mean that the noise impact of the proposed development could not exceed the level found to be acceptable. BAL proposes caps on the size of the day time and night time air noise contours, and a monitoring and annual reporting mechanism for actual air noise contours. As the airport grows towards 12 mppa, this mechanism will allow NSC to monitor actual noise against the cap. If actual noise contours begin to reach the contour cap then the result would either be that there could be no more flights or airlines would have to include more 'new generation' aircraft in the mix they fly from Bristol Airport. Such a consequence would be an operational issue for BAL and the airlines to resolve, but there would be a very strong commercial driver for airlines to accelerate the introduction of 'new generation' aircraft. Importantly, however, this would not be a matter that affects the environmental impact of the proposed development because the air noise 'effect' would be capped. If any issue arose regarding compliance with the noise contour cap NSC would, of

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<sup>71</sup> Proof of Evidence of Mr Folley, para 3.1 (NSC/W1/1).

<sup>72</sup> Proof of Evidence of Mr Folley, para 7.8 (NSC/W1/1).

<sup>73</sup> Rebuttal Proof of Mr Brass (Forecasting), section 4.2 (BAL/1/3).

course, enjoy the full range of planning enforcement powers in respect of the condition. There is no reason to believe that NSC would not properly enforce the condition.

#### Challenges

76. What is striking on this topic is the degree to which there is general agreement with NSC regarding the forecast modelling carried out. It is common ground that:
- a. The Core Case is the most likely to materialise;
  - b. The Core Case provides the most appropriate basis on which to carry out an environmental assessment; and
  - c. That the approach of testing the Core Case against alternative growth scenarios is appropriate.
77. There remains, however, four principal points of challenge presented in the evidence of NSC and the Rule 6 parties, three of which are of a similar nature. A summary of these points is as follows:
- a. Lack of sensitivity testing: The lack of quantitative sensitivity testing has been raised as a concern by Mr Folley on behalf of NSC;
  - b. Uncertainty: Within the criticism that forecasting is too uncertain to be relied upon, there are three distinct factors identified:
    - i. The impact of Jet2 operating from Bristol Airport on the future fleet mix and busy day timetable;
    - ii. The impact of the UK's departure from the European Union ('EU') on air traffic forecasts; and
    - iii. The recovery of travel, and business travel in particular, following the COVID-19 pandemic.
78. These arguments have been identified and responded to in section 5 of the Proof of Evidence of Mr Brass and in his rebuttal evidence.<sup>74</sup>
79. In short, with regards NSC's concern over the lack of quantitative sensitivity testing, as explained above, the analysis by York Aviation has demonstrated that the forecast outputs which inform

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<sup>74</sup> BAL/1/2 and BAL/1/3.

the environmental assessment are relatively insensitive to the speed of passenger growth. Indeed, this is entirely consistent with the findings of the Inspectors in the context of the Stansted Airport appeal decision, who noted that it had “*remained unclear throughout the inquiry, despite extensive evidence, why the speed of growth should matter to the appeal.*”<sup>75</sup> As the Inspectors noted, “*if it ultimately takes the airport longer than expected to reach anticipated levels of growth, then the corresponding environmental effects would also take longer to materialise or may reduce due to advances in technology that might occur in the meantime.*”<sup>76</sup> This is a proposition that Mr Folley himself accepts.<sup>77</sup>

80. With regards to uncertainty, we have explained how the use of planning conditions is capable of overcoming uncertainty regarding fleet mix. With regards to the speed of recovery, the Slower Growth Case does not see the threshold of 12 mppa being reached until 2034, thirteen years from now. It is implausible that over a decade into the future, the impact of current uncertainties will continue to exert a significant influence over demand. This scenario has been used precisely in order to account for a slower rate of growth than assumed in the Core Case, whether that is caused by COVID-19, the UK’s departure from the EU, higher carbon costs or an unrelated factor.

#### Summary of BAL’s Case

81. With regards to BAL’s case, there are six points to note by way of summary:
- a. Bristol Airport has long been a strong and growing regional airport that has been able to outperform the UK as a whole and its nearest competitors;<sup>78</sup>
  - b. The COVID-19 pandemic has suppressed throughput by the imposition of travel restrictions, which has caused a temporary decline in passenger numbers, however the short term forecasts for the UK air transport market and Bristol Airport are of no great relevance to the environmental assessment of the proposed development. They are simply an early step along the way to 12 mppa;
  - c. Crucially, it remains clear from the updated forecasts that underlying passenger demand at Bristol Airport remains strong and that the throughput will grow to meet 12 mppa notwithstanding the short term effects of the COVID-19 pandemic. The question, therefore, is not whether such demand will be reached, but when. Even under the Core

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<sup>75</sup> Stansted Airport Appeal Decision, para 30 (CD6.13).

<sup>76</sup> Stansted Airport Appeal Decision, para 30 (CD6.13).

<sup>77</sup> Proof of Evidence of Mr Folley, para 3.4 (NSC/W1/1).

<sup>78</sup> Proof of Evidence of Mr Brass, (Forecasting), para 2.8.4 (BAL/1/2).

Case, demand is not anticipated to reach 12 mppa for a period of nine years, by which time it is implausible to argue that there will not have been a return of demand for air travel;

- d. These updated passenger forecasts are in broad alignment with wider industry forecasts, such as those produced by IATA and ACI;<sup>79</sup>
- e. The remaining uncertainty regarding when the level of demand will return has been accounted for by the sensitivity testing of the Core Case. This has shown that whether growth was in line with the faster or slower growth scenario, the outputs from the detailed air traffic forecasts that are used as inputs to the EIA are unlikely to be significantly affected;
- f. In any event, NSC agrees that the Core Case is the most likely to be realised and therefore provides an appropriate basis for the assessment of environmental effects; and
- g. Much of the residual uncertainty regarding forecasting can, and should, be dealt with by way of condition.

#### **Socio-economic benefits**

- 82. Bristol Airport is the principal airport and main international gateway for the South West of England and South Wales. In 2018, the airport was responsible for 8,200 FTEs across the South West region through direct, indirect and induced employment. The connectivity provided by the airport enables the flow of trade, investment, people and knowledge that underpins a globally successful region. As at 2018, it is estimated that the airport generates circa £1.7 billion in Gross Value Added (GVA) in the South West economy.
- 83. The proposed development will allow Bristol Airport to grow to serve 12 mppa, delivering important economic, social and environmental benefits that are aligned with the principles of sustainable development, national aviation policy and the UK's wider economic objectives.
- 84. The socio-economic benefits of the proposed development were identified by the Inspectors as CMC1 issue (g). The assessment of the benefits of the proposed development underpins reason for refusal 1, which asserts that the economic benefits would not outweigh the environmental impacts of the proposed development.

#### **Policy Context**

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<sup>79</sup> Proof of Evidence of Mr Brass, (Forecasting), para 2.6.4 (BAL/1/2).

*National Policy*

85. There are three major themes running through the national policy context in which the socio-economic benefits of the proposed development fall to be considered:
- a. The Government's vision for a 'Global Britain';
  - b. The need to 'level up' the UK economy in the aftermath of the COVID-19 pandemic; and
  - c. The role of airports as engines of economic growth and prosperity.
86. With regards to the first of these, the role of air travel in attaining the ambition of a 'Global Britain' is reflected in the APF<sup>80</sup>. That framework sets out that one of the Government's main objectives is *"to ensure that the UK's air links continue to make it one of the best connected countries in the world."*<sup>81</sup>
87. This aim was reiterated in the Green Paper, 'Aviation 2050 – The Future of UK Aviation'<sup>82</sup> in December 2018, in which the Government identified the UK as *"one of the best connected countries in the world"* and recognised that:
- "Aviation has an important role to play in the future of our country. It is key to helping to build a global Britain that reaches out to the world. It underpins the competitiveness and global reach of our national and our regional economies."*<sup>83</sup>
88. The Green Paper highlights the specific economic contribution of aviation in respect of connectivity, productivity, employment and tourism.<sup>84</sup>
89. The recognition of the vital role played by airports in global connectivity has been re-emphasised by the Secretary of State for Transport, Grant Shapps, in a ministerial statement to Parliament in February 2020. He stated as follows:
- "Our airports are national assets and their expansion is a core part of boosting our global connectivity. This in turn will drive economic growth for all parts of this country, connecting our nations and regions to international markets, levelling up our economy and supporting a truly global Britain."*<sup>85</sup>

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<sup>80</sup> CD6.1

<sup>81</sup> Para 9 (CD6.1).

<sup>82</sup> CD9.29

<sup>83</sup> HM Government, December 2018, page 18 (CD9.29).

<sup>84</sup> Page 21 (CD9.29).

<sup>85</sup> CD6.8



90. Most recently, in the foreword to the Government's recent 'Decarbonising Transport' Plan, Grant Shapps recognised that *"international connectivity is a vital part of Global Britain."*<sup>86</sup>
91. This will be all the more important in a post-Brexit UK, both in terms of trade and the labour market.
92. But airports do not just provide international connectivity. The role of airports both as centres of employment and catalysts of economic growth is well-established and recognised in national policy. The APF provides strong support for sustainable air transport growth in recognition of the significant economic and social benefits that it brings:

*"The Government's primary objective is to achieve long-term economic growth. The aviation sector is a major contributor to the economy and we support its growth within a framework which maintains a balance between the benefits of aviation and its costs, particularly its contribution to climate change and noise."*<sup>87</sup>

93. This is echoed in Aviation 2050, which explains that:

*"The government has been clear about the importance of aviation to the whole of the UK. Aviation creates jobs across the UK, encourages our economy to grow and connects us with the rest of the world as a dynamic trading nation. It also helps maintain international, social and family ties. This is why the government supports the growth of aviation, provided that this is done in a sustainable way and balances growth with the need to address environmental impacts."*<sup>88</sup>

94. In March 2021, the Government's BBB plan for recovery from the pandemic highlighted the importance of world class infrastructure in supporting economic growth. BBB articulates the Government's desire to 'level up' the UK economy by supporting economic growth opportunities outside of London and the South East:

*"We will tackle geographical disparities in key services and outcomes across the UK: improving health, education, skills, increasing jobs and growth, building stronger and safer communities and improving infrastructure and connectivity. We will focus on boosting regional productivity where it is lagging to improve job opportunities and wages."*<sup>89</sup>

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<sup>86</sup> Page 8.

<sup>87</sup> CD6.1

<sup>88</sup> HM Government, December 2018, page 18 (CD9.29).

<sup>89</sup> HM Treasury, March 2021, page 71 (CD11.10).

95. Central to this vision is boosting the global competitiveness of UK cities away from London and the South East, such as Bristol. Indeed, the APF recognises that Bristol Airport “*plays a vital role in the economic success of the South West region*”<sup>90</sup>.
96. This importance of airports for the UK economy has explicit links with the MBU policy, as explained by the Secretary of State for Transport in February 2020:
- “We fully recognise the importance of the aviation sector for the whole of the UK economy. The UK’s airports support connections to over 370 overseas destinations in more than 100 countries facilitating trade, investment and tourism. It facilitates £95.2 billion of UK’s non-EU trade exports; contributes at least £14 billion directly to GDP; supports over half a million jobs and underpins the competitiveness and global reach of our national and our regional economies. Under our wider “making best use” policy, airports across the UK are already coming forward with ambitious proposals to invest in their infrastructure.”*<sup>91</sup>
97. The NPPF too provides that significant weight should be given to the need to support economic growth and productivity.<sup>92</sup>
98. What is notable, however, is that there is no policy to stop UK residents travelling abroad in order to retain spending domestically. Indeed, the APF considers the economic impacts of outbound tourism, noting that the evidence available did not show that a decrease in the number of UK residents flying abroad for their holidays would have an overall benefit for the UK economy.<sup>93</sup> It is well recognised that there are not only economic, but social and well-being benefits of international travel<sup>94</sup>. This is particularly so in a UK that is, and prides itself on being, multi-cultural, outward facing, and internationally connected.

#### *Local Policy*

99. The economic importance of Bristol Airport is recognised in the following sub-regional and local policy documents:
- a. The West of England Local Enterprise Partnership Strategic Economic Plan (2015), which identifies the connectivity provided by the airport as a strength of the region and

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<sup>90</sup> Page 21 (CD11.10).

<sup>91</sup> Grant Schapps, 2020, (CD6.8).

<sup>92</sup> Para 80.

<sup>93</sup> Para 1.16 (CD6.1)

<sup>94</sup> APF (CD6.1) paras 1.3 and 1.17.

highlights an opportunity for meeting investment and jobs targets through major development at Bristol Airport;<sup>95</sup>

- b. The North Somerset's Economic Plan 2020 to 2025, which identifies Bristol Airport as a strategic employment site;<sup>96</sup> and
- c. The North Somerset Core Strategy, one of the priorities of which is to “[s]upport and promote major employers in North Somerset, such as Bristol Airport and Royal Portbury Dock, to ensure continued employment security and economic prosperity”.<sup>97</sup>

100. More recently, the West of England Industrial Strategy, which was published in July 2019, highlights the global nature of the West of England economy and the importance of these international links to future prosperity. In particular, it recognises the airport as a strategic economic asset for the region and its role in making the West of England a “critical gateway to the nation and the world”.<sup>98</sup>

#### Local Areas of Deprivation

101. Bristol Airport is located in proximity to, and directly between, two of the South West’s most deprived areas. Parts of both Weston-super-Mare and South Bristol have high levels of economic deprivation as shown by the index of deprivation in Mr Siraut’s Figure 3-3.<sup>99</sup> These areas form an important labour catchment area for the Bristol Airport, which is recognised by NSC as a major employer.<sup>100</sup>
102. As explained later in these opening submissions, BAL has proposed a range of initiatives for both the construction and operational phase of the proposed development which will assist local residents to access skills training and secure employment. These initiatives will be secured through the section 106 agreement, which also makes provision for monitoring the performance of these programmes.

#### Socio-economic Benefits

103. The opportunity to grow Bristol Airport is an opportunity to strengthen the very real contribution that the airport makes to both the regional and UK economy. In this regard, the

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<sup>95</sup> Page 22/23.

<sup>96</sup> Page 22.

<sup>97</sup> Page 20.

<sup>98</sup> Page 4.

<sup>99</sup> Figure 3-3.

<sup>100</sup> North Somerset Core Strategy (CD5.6), page 20.

proposed development is entirely consistent with, and supported by, local and Government economic policy, as outlined above.

104. An assessment of the socio-economic benefits of the proposed development was carried out by York Aviation in relation to BAL's original application for planning permission. The Economic Impact Assessment Report<sup>101</sup>, as updated by the Economic Impact Assessment Addendum ('EclA Addendum')<sup>102</sup>, assesses the socio-economic benefits to be positive and significant on a local and regional level. Further information on this issue was provided in the ESA and in response to requests for further information by NSC Officers under regulation 25 of the 2017 EIA Regs.<sup>103</sup>
105. NSC Officers had the independent advice of Jacobs in considering the scale of the benefits. Importantly, although NSC Officers did not accept in full the exact scale of the economic benefits, the Officers' Report<sup>104</sup> concluded that:
- a. The methodology used to assess the economic benefits was appropriate,<sup>105</sup> and
  - b. It was "*clear*" that the proposed development would have a "*substantial net economic impact for North Somerset and the wider sub-region*". This was the case even if a conservative estimate of the economic benefits was adopted, allowing for a high degree of displacement.<sup>106</sup>
106. It is notable that the only changes that have been made to the methodology since the original application were those made in response to requests by NSC itself. In all other respects, the methodology used for the EclA Addendum and ESA remains the same as that previously accepted as appropriate.<sup>107</sup>

#### *The Assessed Benefits*

107. The proposed development's impact on GVA and employment has been assessed as being major beneficial and significant in North Somerset and the West of England, and moderate beneficial and significant in the South West and South Wales.<sup>108</sup> Significantly, these conclusions

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<sup>101</sup> CD2.8

<sup>102</sup> CD2.22

<sup>103</sup> CD3.4.3 and CD3.6.7.

<sup>104</sup> CD4.11

<sup>105</sup> Page 26.

<sup>106</sup> Page 64 (CD3.13).

<sup>107</sup> Proof of Evidence of Mr Brass (Socio-economics), para 4.2.10.

<sup>108</sup> Proof of Evidence of Mr Brass (Socio-economics), para 4.4.1.

remain the same for both the faster or slower growth scenarios<sup>109</sup>, indicating that the scale of the benefits is relatively insensitive to the speed of growth.

108. The precise scale of the economic benefits is set out in the EclA Addendum<sup>110</sup> and summarised in Table 1 in the Proof of Evidence of Mr Brass on Socio-Economics. In summary, the proposed development will have the following total additional economic impacts in 2030 (at 12 mppa) above the benefits of the currently consented 10 mppa throughput in that year:

- a. £70 million in GVA and 710 jobs (570 FTEs) in North Somerset;
- b. £220 million in GVA and 2,460 jobs (2,040 FTEs) in the West of England; and
- c. £310 million in GVA and 4000 jobs (3,210 FTEs) in the South West and South Wales.<sup>111</sup>

109. In addition to the operational benefits, the construction of the proposed development will provide positive economic benefits for the region.

110. Overall, the proposed development will act as a catalyst for the wider economy by enabling trade, foreign direct investment, competition, agglomeration, labour market effects and inbound tourism. In its role as a major employer and centre of prosperity in its own right, the expansion of the airport will contribute to the wider regeneration of areas around the airport and provide opportunities for the supply chain in the region, thereby increasing prosperity across the South West. This will be of particular benefit for those areas of economic deprivation in proximity to the airport.

111. This type and scale of development is directly in line with ambitions for the West of England to be a world class, global location for business, and one of the UK's leading tourism regions. It is precisely the sort of development that supports the Government's 'levelling up' agenda, enabling regions away from London and the South East to drive up productivity and 'bridge the gap'.

112. The benefits of the proposed development are supported by a range of social initiatives that will be delivered by BAL in association with the expansion of the airport. These are as follows:

- a. A construction phase local labour agreement and action plan;

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<sup>109</sup> Proof of Evidence of Mr Brass (Socio-economics), para 4.4.1.

<sup>110</sup> CD2.22

<sup>111</sup> Taking into account direct, indirect, induced and wider effects.

- b. An 'Achieve Programme' to deliver employment and skills interventions and a programme of activities with education providers relating to the operational phase of the development;
  - c. An operational phase education programme, through which BAL will engage with the education sector in order to develop opportunities for young people to access employment at the airport; and
  - d. A monitoring programme, which will set out the agreed key performance indicators against which the implementation of the Skills and Employment Plan will be monitored.
113. These initiatives seek to ensure that the economic opportunities and benefits provided by the growth of the airport are experienced by the local community.

#### Challenges

114. The principal challenges raised by NSC and the Rule 6 parties can be summarised as follows:
- a. Business travel will not grow as anticipated following the COVID-19 pandemic;
  - b. The levels of employment identified in the EclA Addendum are incorrectly calculated as the assessment has not taken into account improvements in productivity;
  - c. The economic costs of carbon emissions and other environmental impacts should be taken into account;
  - d. The levels of displacement have been understated in the EclA Addendum; and
  - e. That, overall, the economic benefits are overstated and/or the weight to be attributed to the benefits of expansion should be reduced, due to the limitations on airport growth that result from carbon targets.
115. These issues are identified and responded to in detail in section 5 of the Proof of Evidence of Mr Brass on Socio-economics, and his Rebuttal Proof of Evidence.<sup>112</sup> The question of whether reduced weight should be attributed to the socio-economic benefits of the proposed development is dealt with in section 2.4 of the Rebuttal Proof of Mr Melling.<sup>113</sup>

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<sup>112</sup> BAL/1/2 and BAL/1/3.

<sup>113</sup> BAL/7/3.

116. With regards to the other points of challenge raised, BAL's evidence<sup>114</sup> indicates that the fundamental errors in the forecasting analysis presented by My Folley undermines the arguments of Mr Siraut, such that he fails to demonstrate that business travel will not recover due to new technologies and attitudinal changes.<sup>115</sup> As explained in the Rebuttal Proof of Mr Brass, Mr Siraut's assessment itself contains serious errors which affect both his calculation of direct employment benefits<sup>116</sup> and his analysis of the effects of displacement<sup>117</sup>. Similarly, as Mr Brass explains in his Rebuttal Proof<sup>118</sup>, the re-modelling of displacement by Dr Chapman is flawed.
117. In respect of the argument raised by the PCAA that the ES and ESA should include the monetised cost of carbon emissions and other environmental impacts of the proposed development, this issue is responded to specifically in section 5.7 of the Proof of Evidence of Mr Brass<sup>119</sup>.

#### Summary of BAL's Case

118. The proposed development represents a major private sector infrastructure investment both locally in North Somerset and regionally in the South West. It provides an opportunity to strengthen the important economic contribution that the airport makes, both in terms of employment and GVA, to the region. The creation of 710 additional jobs in North Somerset will bring real benefits to those living in the broad employment catchment area for the airport, including two of the most deprived areas within the South West. As the analysis in the EclA Addendum indicates<sup>120</sup>, the jobs generated at the airport are well-paid and, therefore, have the potential to make a real difference to the lives of individuals.
119. Whilst NSC and the Rule 6 parties to the appeal have questioned the precise levels of employment or exact GVA that the proposed development will deliver, the evidence demonstrates that even on a conservative view, the benefits are substantial. It is not the case that if the additional employment figure should be 343 to 582 jobs (as alleged by Mr Siraut) rather than 710 (as assessed in the EclA), the benefits are in some way materially diminished. Disputes concerning the precise figures should not detract from the fact that the proposed development will deliver real benefits to real people.

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<sup>114</sup> Proof of Evidence of Mr Brass (Forecasting), section 4.9 (BAL/1/2) and Rebuttal Proof of Mr Brass (Forecasting), section 2 (BAL/1/3).

<sup>115</sup> See, for example, para [2.2.8 – 2.2.10] of the Rebuttal Proof of Mr Brass (Socio-economics) (BAL/5/3).

<sup>116</sup> Explained by Mr Brass at section 3 (BAL/5/3).

<sup>117</sup> Explained by Mr Brass at section 4 (BAL/5/3).

<sup>118</sup> Rebuttal Proof of Mr Brass, section 4.4 (BAL/5/3).

<sup>119</sup> BAL/5/2.

<sup>120</sup> EclA Addendum (CD2.22), page 26, Figure 3-8.

120. Indeed, even accepting the evidence of Mr Siraut in full (which BAL does not) and adopting the most pessimistic assumptions, the proposed development would still provide substantial benefits at a regional, sub-regional and, importantly, local level.
121. The delivery of such benefits is entirely consistent with Government policy, the thrust of which is to capitalise on economic opportunities in order to 'level up' economic growth outside the South East of England. The proposed development is also perfectly in-keeping with NSC's ambitions to provide employment and improve the skills of those living in nearby economically deprived areas, such as parts of Weston-super-Mare, through development areas such as the Junction 21 Enterprise Area.
122. This is consistent with, and supported by, the social initiatives proposed by BAL as outlined above. For the reasons explained in Mr Melling's evidence, the substantial socio-economic benefits are capable of outweighing the modest environmental impacts of the proposed development.

### **Noise**

123. As with all development that seeks to deliver substantial socio-economic benefits, there will inevitably be some degree of environmental impact associated with the delivery of those benefits. As was said at the outset, it falls to the planning system to reconcile the national and regional needs with the impacts that are borne most directly by the local community; and the delivery of infrastructure improvements, such as airport expansion, is no different.
124. The need to strike a balance between economic, social and environmental goals is recognised by the MBU policy<sup>121</sup>. MBU identifies that it is for local planning authorities in the first instance, and Inspectors on appeal, to carry out this balancing exercise within the framework of national, regional and local policy.
125. The noise impact of Bristol Airport is currently limited by conditions imposed in connection with the grant of the 2011 Permission. This includes a day-time contour cap of 57 dB  $L_{Aeq16hr}$  (Condition 30), a noise quota count ('QC') system in order to control night-time noise levels (Condition 36), an overall limit and seasonal restriction on the number of night-time flights (Condition 38) and a limitation on the number of flights in the 'shoulder-periods' (Condition 39). These limitations are in addition to certain measures secured by condition and a section 106

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<sup>121</sup> CD6.4



agreement, such as the Environmental Improvement Fund, which are used to offset and mitigate the local environmental impacts of the airport.

126. The operational phase of the proposed development has three potential noise sources, namely, air noise, ground noise and road traffic noise, all of which have been assessed. The ES also carried out an assessment of the noise impacts arising from construction and any potential vibration impacts. Both of the latter potential noise sources were found to be acceptable by NSC Officers and do not feature in the reasons for refusal. For this reason, they are not covered in detail in the Proof of Evidence of Mr Williams.<sup>122</sup> The impact of the proposed development on road traffic noise was considered in Mr Williams's Proof of Evidence, but it has subsequently been agreed with NSC that it is no longer in issue<sup>123</sup>.
127. At the time of the Officers' Report<sup>124</sup>, the methodology and results of the noise assessment in the ES were accepted and considered to be consistent with policy.
128. The impact of the proposed development in terms of noise is expressly referred to in reason for refusal 2, but also forms one of the environmental impacts referred to in reason for refusal 1. It was identified by the Inspectors at CMC1 as issue (e).

#### Noise Policy Context

##### *National Policy*

129. The Noise Policy Statement for England 2010 ('NPSE')<sup>125</sup> provides the policy framework for noise management decisions, in order to ensure that noise levels do not place an unacceptable burden on society. NPSE introduces the following concepts for categorising noise effects:
- a. 'No Observed Adverse Effect Level' ('NOAEL'), being the level at which no effect can be detected;
  - b. 'Lowest Observed Adverse Effect Level' ('LOAEL'), being the level above which above which adverse effects on health and quality of life can be detected;
  - c. 'Significant Observed Adverse Effect Level' ('SOAEL'), being the level above which significant adverse effects on health and quality of life occur.

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<sup>122</sup> See Proof of Evidence of Mr Williams, at paras 4.1.4 to 4.1.6 (BAL/2/2).

<sup>123</sup> Draft SoCG Part 2 pp.51/2

<sup>124</sup> CD4.11

<sup>125</sup> CD10.4

130. The Planning Practice Guidance ('PPG')<sup>126</sup> defines SOAEL as the level at which *"a material change in behaviour such as keeping windows closed for most of the time or avoiding certain activities during periods when the noise is present"*.<sup>127</sup> The PPG continues, *"If the exposure is predicted to be above this level the planning process should be used to avoid this effect occurring, for example through the choice of sites at the plan-making stage, or by use of appropriate mitigation such as by altering the design and layout. While such decisions must be made taking account of the economic and social benefit of the activity causing or affected by the noise, it is undesirable for such exposure to be caused."* (emphasis added). The 'Noise Exposure Hierarchy Table' within the PPG says that at this level of exposure the action is 'Avoid'. The PPG also introduces the concept of 'Unacceptable Adverse Effect Level' ('UAEL'), which is described as follows: *"At the highest extreme, noise exposure would cause extensive and sustained adverse changes in behaviour and / or health without an ability to mitigate the effect of the noise. The impacts on health and quality of life are such that regardless of the benefits of the activity causing the noise, this situation should be avoided."*<sup>128</sup> The 'Noise Exposure Hierarchy Table' within the PPG says that at this level of exposure the action is 'Prevent'. There is no receptor above the UAEL at Bristol Airport.
131. Where adverse noise impacts are identified and cannot be avoided, mitigation measures are recommended to ensure no significant residual effects on health and quality of life arise. It is important to note that findings of noise levels above LOAEL or SOAEL do not mean that there is a 'significance' effect in terms of EIA (as explained further below).
132. The APF<sup>129</sup> defines the Government's objectives and policies on the impacts of aviation. In respect of noise, the APF sets out the Government's overall objective to *"limit and where possible reduce the number of people in the UK significantly affected by aircraft noise"*, consistently with the NPSE. The APF treats 57 dB L<sub>Aeq,16h</sub> as an average level of day time aircraft noise marking the approximate onset of significant community annoyance; more recently, the Survey of Noise Attitudes ('SONA')<sup>130</sup> study has resulted in a level of 54 dB L<sub>Aeq,16h</sub> being adopted the approximate onset of significant community annoyance<sup>131</sup>. It is well recognised, however, that this does not mean that all people exposed to this level or higher will experience significant

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<sup>126</sup> CD10.40

<sup>127</sup> Paragraph: 005 Reference ID: 30-005-20190722.

<sup>128</sup> PPG (CD10.40), Paragraph: 005 Reference ID: 30-005-20190722; 'Noise hierarchy table'.

<sup>129</sup> CD6.1

<sup>130</sup> CD10.9

<sup>131</sup> Proof of evidence of Mr Williams para 3.6.3 (BAL/2/3).

adverse effects from aircraft noise, nor does it mean that no one exposed to lower levels will consider themselves annoyed.<sup>132</sup>

133. Paragraph 180 of the NPPF<sup>133</sup> sets out the aim of ensuring that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment. In so doing, proposals should mitigate and reduce to a minimum potential adverse impacts from noise, avoid noise from giving rise to significant adverse impacts on health and quality of life, and identify and protect tranquil areas.

#### *EIA Significance*

134. As noted above, the concepts of LOAEL and SOAEL introduced in the NPSE do not in themselves equate to findings of significance in EIA terms.
135. The assessment of air noise impacts in the context of EIA has regard to both the absolute level of noise and the difference in noise levels between the consented 10 mppa scenario and the proposed 12 mppa Core Case growth scenario as at 2030.
136. The ES and ESA utilised  $L_{Aeq,16h}$  and  $L_{Aeq,8h}$  as the primary metrics, which were supported by supplementary metrics, such as noise frequency modelling ( $L_{Amax}$ ) and number-above data (Nx). This was accepted by NSC Officers as appropriate and consistent with current and emerging policy.<sup>134</sup>
137. The ES and ESA assign noise levels to LOAEL, SOAEL and UAEL for each noise source. If a receptor is above the LOAEL then there is the potential for an EIA 'significant' effect, depending on the magnitude of change. Above the SOAEL, a smaller change is required for an EIA 'significant' effect to be found.
138. The LOAEL adopted for the purpose of the EIA is 51 dB  $L_{Aeq,16h}$  for day time air noise and 45  $L_{Aeq,8h}$  for night-time air noise. The adopted SOAEL is 63 dB  $L_{Aeq,16h}$  for daytime air noise and 55 dB  $L_{Aeq,8h}$  for night time air noise; the daytime level reflects the Government's recommended level for sound insulation. These levels are also consistent with the adopted SOAEL levels for other recent UK airport planning applications.<sup>135</sup> In terms of the magnitude of change, for receptors where the noise level would be between the LOAEL and the SOAEL, a value of 3 dB was adopted

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<sup>132</sup> APF (CD6.1), Para 3.17.

<sup>133</sup> CD5.8

<sup>134</sup> Officer's Report (CD4.11), page 65.

<sup>135</sup> See Proof of Evidence of Mr Williams, Table 5 (BAL/2/2). The exception is the recent Stansted Airport expansion, where a SOAEL of 54 dB  $L_{Aeq,16h}$  for night-time was adopted, 1 dB lower than the other five recent airport applications.

as the EIA threshold for a 'significant' change. In respect of receptors where the noise level would be above the SOAEL, a lesser threshold of 2 dB was adopted.<sup>136</sup> This approach was accepted by NSC Officers at the time of the Officers' Report.<sup>137</sup>

139. There is currently no UK policy or standard which sets out an assessment method which must be followed for ground noise. The ES and ESA adopted the same metrics of  $L_{Aeq,16h}$  and  $L_{Aeq,8h}$ . This was found acceptable by NSC Officers and their consultants, and is consistent with other recent airport applications. The LOAEL and SOAEL values differ to those adopted for air noise, however.
140. The assessment of road traffic noise is set out in the Design Manual for Roads and Bridges, and requires the use of  $L_{A10,18h}$  metric. This metric was agreed with NSC Officers.
141. For both ground and road traffic noise, the ES and ESA had regard to both absolute noise levels and changes in noise levels in order to determine any 'significant' effects.

#### *Local Policy*

142. The local policies cited in reasons for refusal 1 and 2 are policy CS3, policy CS23 and policy CS26 of the North Somerset Core Strategy 2017. The local policy context for the assessment of environmental impacts is dealt with in detail in the Proof of Evidence of Mr Melling at section 2, but it is sufficient at this stage to note the following points:
- a. The test in policy CS3 for development causing environmental pollution or harm to amenity is whether the potential adverse effects would be mitigated to an 'acceptable' level;
  - b. The test in policy CS23 requires the "*satisfactory resolution of environmental issues*". As such, if policy CS3 is satisfied, so is CS23;
  - c. Local policy incorporates the NPPF and NPSE, the overall aims of which are to avoid significant adverse noise impacts and mitigate and minimise adverse noise impacts; and
  - d. Policy CS26 is framed in positive terms; it supports "*programmes and strategies*" that increase and improve health services, promote healthier lifestyles and aim to reduce health inequalities. It is only of indirect relevance to the assessment of the noise impact of the proposed development, in that it requires a Health Impact Assessment ('HIA') to

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<sup>136</sup> As explained in the Proof of Evidence of Mr Williams, para 4.2.52 (BAL/2/2).

<sup>137</sup> See, for example, page 73 of the Officers' Report (CD4.11).

be carried out. It does not, however, impose a requirement that all development must contribute to the improvement of the health and well-being of communities.

#### Geographical Context

143. The geographical context of Bristol Airport is a relatively rural one. In comparison to airports situated in urban environments, there are comparatively very few dwellings that may experience noise impacts due to the low population density in the surrounding area.
144. In this regard, whilst there are of course real noise impacts experienced by some individuals located in the vicinity of the airport, in relative terms compared to many airport expansion projects, the numbers of individuals adversely affected are very small. There are, therefore, some advantages in seeking to expand airports in more remote rural locations from a noise perspective.

#### ES and ESA Assessment of Effects

145. The noise impacts of the proposed development have been subject to extensive analysis by Bickerdike Allen and Partners, the results of which are set out in chapter 7 of the ES and chapter 6 of the ESA.

#### *Inputs*

146. The main inputs to the noise assessment are the future fleet mix, the 92 day summer period average daily movements, and night movements. These inputs are derived from the air traffic forecast modelling in relation to the Core Case. As explained above, the sensitivity testing carried out by York Aviation demonstrates that these inputs are relatively insensitive to the point in time at which 12 mppa is reached, such that whether growth in demand is faster or slower than envisaged by the Core Case, this will not have a material impact on these inputs. Having said that, with the passage of time, the average fleet mix will contain more 'new generation' aircraft and so noise associated with an additional 2 mppa in a slower growth scenario will tend to be less than forecast in the Core Case.

#### *Outputs*

147. The outputs of the primary air noise assessment (i.e. using  $L_{Aeq,16h}$  and  $L_{Aeq,8h}$  metrics) are summarised in section 4 of the Proof of Evidence of Mr Williams. There are twelve key points to note at this stage, as follows:

- a. The ESA concluded that the proposed development would give rise to no significant adverse noise effects, either from air or ground noise;<sup>138</sup>
- b. The number of dwellings exposed to daytime air noise levels at or above the LOAEL does not materially change between the 2017, 10 mppa (2024) and 12 mppa (2030) scenarios adopted in the assessment. Indeed, the number of properties actually reduces from around 3,250 in 2017 to 3,100 in the 12 mppa (2030) scenario. The 10 mppa scenario shows a further reduction to 2,600;
- c. The number of dwellings exposed to daytime air noise above the SOAEL is low in all scenarios – 20 in the 2017 and 10 mppa (2024) scenarios and 10 in both the 10 mppa and 12 mppa (2030) scenarios;
- d. These changes in daytime noise level between the 10 mppa and 12 mppa scenarios are less than 1 dB and assessed as ‘negligible’ in the ESA;
- e. The number of people ‘highly annoyed’ is assessed to be marginally lower in the 12 mppa (2030) scenario than in the 2017 and 10 mppa (2024) scenarios, and only marginally higher than the 10 mppa (2030) scenario;
- f. With regards to night-time air noise, the number of dwellings exposed to levels at or above the LOAEL does not materially change between the 2017, 10 mppa (2024) and 12 mppa (2030) scenarios (increasing from around 3,750 in 2017, to 4,000 in the 12 mppa scenario). The 10 mppa (2030) scenario shows a reduction to around 3,400;
- g. The number of dwellings exposed to night-time air noise levels at or above the SOAEL increases from around 150 in the 2017 scenario, to around 200 in the 10 mppa (2024) scenario and around 250 in the 12 mppa (2030) scenario. In the 10 mppa (2030) scenario it would reduce to around 100;
- h. The changes in night-time noise level between 10 mppa and 12 mppa scenarios are less than 2 dB and assessed in the ESA as ‘negligible’;
- i. Overall, the ESA found that when comparing the 10 mppa (2024) with the 12 mppa (2030) scenarios, both daytime and night-time noise levels would remain comparable with or without development, as the increase in flights would be offset by a high proportion of quieter aircraft. When comparing 10 mppa (2030) and 12 mppa (2030), the ESA found

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<sup>138</sup> ESA (CD2.20.1), para 6.1.1 and 6.1.4.

that night-time noise levels for all assessed receptors would increase by less than 1 dB, i.e. a negligible amount well below the significance threshold.

- j. The ESA considered a qualitative assessment of faster and slower growth forecasts. This assessment concluded that the effect of these forecasts on the 10 mppa and 12 mppa scenarios was likely to be comparable and would result in differences in air noise levels of up to +0.5 dB for the faster growth scenario and -0.5 dB for the slower growth scenario;
  - k. The particular uncertainty in the forecast has some impact on absolute air noise levels experienced by the community, but would apply similarly to the 'without development' scenario. The conclusions of the ESA assessment would therefore not change, as the difference between the with and without development cases would remain similarly low and result in no significant impacts;
  - l. As explained above, any other uncertainty regarding noise impacts (whether that be from uncertainty with regards to the future fleet mix or otherwise) is perfectly capable of being managed, as it is currently. The imposition of conditions to impose a daytime noise contour cap, a night-time noise contour, a QC scheme and a restriction on the number of flights in the shoulder periods means that there is no doubt in relation to the maximum noise levels that will be experienced.
148. Supplementary noise metrics, such as Number Above (Nx) metrics (the number of times that a receptor is likely to experience noise levels over a particular threshold), were produced as part of the ES assessment to aid an understanding of how the noise environment will change from one scenario to another. Whilst much is made of the use of alternative metrics by Mr Fiumicelli (as discussed further below), there is limited evidence relating to how these metrics correspond to community response.<sup>139</sup> These metrics can be useful, however, in aiding an understanding of a noise assessment as it affects local communities.
149. With regards to ground noise, the ESA similarly found that the number of dwellings exposed to noise levels at or above the LOAEL does not materially change between 10 mppa (2030) and 12 mppa (2030) scenarios. The number of dwellings exposed to ground noise levels at or above the SOAEL is low in all scenarios: one property in 10 mppa (2030) scenario for both day and night, increasing to 2 at night in the 12 mppa (2030) scenario. The changes in ground noise level are assessed as 'negligible' and below the threshold of significance in the ESA. Indeed, for the

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<sup>139</sup> Proof of Evidence of Mr Williams, para 4.2.21 in respect of N70 and N60 contours (BAL/2/2).

majority of residential properties above the LOAEL, the proposed development is forecast to provide a benefit in terms of ground noise, due to additional screening provided by the proposed infrastructure works. Once again, the slower or faster growth to 12 mppa was assessed to have no material impact on the assessment results or conclusions.

150. With regards to road traffic noise, the number of dwellings exposed to road traffic noise levels at or above the LOAEL does not change between the 10 mppa (2030) and the 12 mppa (2030) scenarios. Similarly, the number of dwellings exposed to noise levels at or above the SOAEL does not change. The changes in noise level between the 10 mppa and 12 mppa scenarios considered in the ESA are assessed as 'negligible', all of which were changes below 1 dB.

#### *Noise Mitigation Measures*

151. As noted above, BAL already operates a noise insulation scheme ('NIS') under which grants are offered for noise insulation works for residential buildings. As part of the proposed development, and in recognition that there will be some adverse noise impacts (albeit no significant ones), BAL has proposed a substantial package of measures to mitigate aircraft noise. This will expand the NIS to encompass more properties, provide larger grants and increase the minimum standards of glazing and ventilators available.

#### Challenges

152. The principal challenges raised by NSC and the Rule 6 parties are identified and responded to in section 5 of the Proof of Evidence of Mr Williams and his Rebuttal Proof. A summary of the main points, which raise similar themes to those already identified in this Opening, are as follows:
- a. The impact of uncertainty regarding air traffic forecasting, including the impact of Jet2 operating from Bristol Airport on the future fleet mix, and the rate of growth;
  - b. The appropriateness of qualitative, instead of quantitative, sensitivity testing;
  - c. The requirement to use alternative metrics to inform a determination of significance;
  - d. The appropriateness of the thresholds adopted; and
  - e. That planning permission should be refused where it results in increased noise impacts and/or any increase in the number of properties experiences noise levels about the SOAEL.



153. We have already provided a summary of BAL's response to the first two points in the context of considering uncertainty in air traffic forecasting and the appropriateness of qualitative sensitivity testing.
154. With regards to the use of alternative metrics, as Mr Williams explains, the use of such metrics may be a useful aid to understanding the noise impacts of development, but they are not necessarily useful as a test of significance and there is no policy requirement to do so.<sup>140</sup> Indeed, where the use of primary metrics does not reveal 'significant' effects, supplementary metrics are not able to change this conclusion.
155. Mr Fiumicelli, on behalf of NSC, makes a number of criticisms of the methodology adopted in the ES and ESA. Three points are made in response at this stage:
- a. The methodology was agreed as appropriate and consistent with policy by NSC Officers;
  - b. The approach to assessing noise is entirely consistent with the assessments carried out in respect of other airport development applications and found to be appropriate by the relevant decision makers including, most recently, the Inspectors into the Stansted Airport appeal; and
  - c. The range of points raised by Mr Fiumicelli are not novel; these points have been raised previously in the context of other airport developments and have not resulted in the refusal of planning permission or been reflected in Government policy on the assessment of air noise effects.
156. As Mr Melling explains, NSC's position that planning permission should be refused for any development that results in an increase in noise impacts, and/or an increase in the number of properties experiencing noise levels above the SOAEL, is a fundamental misinterpretation of the Government's policy position on noise.<sup>141</sup>

#### Summary of BAL's Case

157. It is inevitable that increasing the capacity of an airport will bring with it an associated increase in air traffic and ground movements when considering a specific future year. The associated noise impact of the proposed development has been subject to detailed assessment using

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<sup>140</sup> Proof of Evidence of Mr Williams, para 4.2.8 (BAL/2/2).

<sup>141</sup> Mr Melling, Rebuttal Proof, para 4.4.26 and 4.4.30 (BAL/7/3).

methodology that is consistent with policy, agreed with NSC Officers as being appropriate, and entirely in-keeping with the approach adopted for other airport applications.

158. While the other parties have sought to criticise detailed aspects of the assessment, standing back, what is striking is quite how limited the noise impacts of the proposed development are in the context of airport expansion projects. The results indicate that the difference in aviation noise between 10 mppa and 12 mppa is minimal and ‘not significant’ in EIA terms. This is partly due to the low population density around Bristol Airport and partly due to the modest nature of the increase in throughput compared to that already permitted. In addition, a comprehensive set of conditions is proposed that will remove any residual uncertainty about the maximum noise levels that will be experienced.
159. As explained in the Proof of Evidence of Mr Melling, the proposed development is consistent with national and local policy in respect of noise effects.<sup>142</sup> This is also consistent with findings of NSC Officers, who considered that *“there would not be an unacceptable adverse impact arising from the proposed increase in day time flight numbers or the variation of the night time flight caps”*.<sup>143</sup>

#### **Air Quality**

160. The impact of the proposed development on air quality is one of the two environmental impacts (alongside noise) that underpins reason for refusal 2. It is notable, however, that the reason for refusal is limited to the air quality impacts *“generated by the increase in aircraft movements”*. The reason for refusal does not refer to the impact of (for example) increased road traffic, ground support equipment or car parks, on air quality.
161. The impact of the proposed development on air quality was identified by the Inspectors at CMC1 as issue (d).

#### Legal and Policy Context

##### *AQS and AQO*

162. The key criteria against which air quality impacts are to be assessed are as follows:
- a. Air Quality Standards (“AQS”). The Air Quality Standards Regulations 2010<sup>144</sup> impose a duty on the Secretary of State to comply with AQSs;

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<sup>142</sup> Proof of Evidence of Mr Melling, paras 4.4.19 – 4.4.31 (BAL/7/2).

<sup>143</sup> Officers’ Report, page 77 (CD4.11).

<sup>144</sup> CD8.3

- b. Air Quality Objectives (“AQO”). AQOs are set by the Government in the Air Quality Strategy<sup>145</sup> and are a keystone of the Local Air Quality Management framework under which local authorities are expected to deliver compliance with the AQOs.
163. Both AQs and AQOs set limit values for air pollutants. For the purposes of this appeal, the AQs and AQOs are numerically the same. The limit values of greatest relevance for present purposes are the following:
- a. Annual mean concentration of NO<sub>2</sub> of 40 µg m<sup>-3</sup>;
  - b. Annual mean concentration of 40 µg m<sup>-3</sup> of PM<sub>10</sub> and daily mean concentration of 50 µg m<sup>-3</sup> not to be exceeded more than 35 times a year; and
  - c. Annual mean concentration of PM<sub>2.5</sub> of 25 µg m<sup>-3</sup>.
164. Paragraph 170(e) of the NPPF provides that planning decisions should prevent new development giving rise to unacceptable levels of air (and other) pollution. Paragraph 180 says that development must be appropriate for its location in terms of the likely effects of pollution on public health and living conditions. Paragraph 181 says that decisions should “*sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones*” and local air quality action plans.

#### *Local Policy*

165. The Proof of Evidence of Mr Melling explains the local policy context for the assessment of environmental effects. The policies of the Core Strategy cited in reason for refusal 2 are policies CS3, CS23 and CS26.
166. The points previously made in this opening in relation to these policies in the context of noise are equally applicable to the consideration of air quality impacts. In particular, (i) that policies CS3 and CS23 seek the satisfactory resolution of environmental issues, ensuring that they are mitigated to an acceptable level, and (ii) that policy CS26 does not impose a positive requirement on all development to improve the health and well-being of communities.

#### ES and ESA Assessment of Effects

##### *Methodology*

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<sup>145</sup> CD8.2

167. The impact of the proposed development on air quality has been thoroughly assessed by Wood. The assessment is set out in Chapter 8 of the ES and Section 7 of the ESA.
168. Five potential sources of emissions were assessed; aircraft, ground support equipment, road traffic (both airport and non-airport related), car parks and background sources. The assessment follows best practice guidance, including the approach recommended by the Project for the Sustainable Development of Heathrow (for aircraft emissions), the use of emission factors published by DEFRA and dispersion modelling from DEFRA's Local Air Quality Management Technical Guidance<sup>146</sup> (for road traffic emissions), and DEFRA's mapped background concentration data (for background sources).
169. The updated assessment in the ESA used the same methodology in the ES, but compared the 10 mppa scenario and 12 mppa scenario as at 2030 in line with the Core Case. The findings of the assessment were sensitivity tested against the faster and slower growth cases.
170. At the time of the original application, the methodology was agreed to be acceptable by NSC in its EIA Scoping Opinion<sup>147</sup> issued in August 2018. Officers and their advisers remained content with the methodology at the date of the Officers' Report<sup>148</sup>, which said that *"the method used to establish the air quality results and the number and distribution of the assessment locations provide a realistic projection of the impacts."*
171. The ES was also reviewed by Public Health England, who also agreed that *"the major pollutants of concern are nitrogen dioxide (NO<sub>2</sub>) and particulate matter (PM<sub>10</sub>/PM<sub>2.5</sub>)"* and that the proposals did not give rise to additional impacts that need to be mitigated.<sup>149</sup>

### *Results*

172. The assessment in the ES found that the air quality impacts of the proposed development would be of 'moderate significance' in EIA terms. Increases in annual mean NO<sub>2</sub> were predicted to result in impacts which are classified as moderate adverse in terms of the IAQM/EPUK guidance<sup>150</sup> at seven receptors, and slight adverse at a further 50 receptors, but no other significant air quality impacts at any human or ecological receptor were predicted.

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<sup>146</sup> CD8.10

<sup>147</sup> CD4.9

<sup>148</sup> CD4.11

<sup>149</sup> Officer's Report (CD4.11), pages 146 and 208.

<sup>150</sup> CD8.6

173. The revised assessment in the ESA, using updated information, demonstrates that the air quality impacts of the proposed development, although not negligible, are small and are 'not significant' in EIA terms. Indeed, the assessment in the ESA found concentrations of NO<sub>2</sub> in the 10 mppa and 12 mppa Core Case scenarios to be appreciably lower than those reported in the ES, as a result of a smaller contribution from road traffic sources due to reductions in emission factors over time. The ESA predicted no 'moderate' impacts, 'slight adverse' impacts at just fourteen receptors, and negligible impacts at all other modelled receptors. The concentrations at all receptors would remain comfortably below the AQO, with a maximum NO<sub>2</sub> concentration of 30 µg m<sup>3</sup>. All other impacts, including from PM<sub>10</sub> and PM<sub>2.5</sub>, were assessed to be 'negligible'.
174. The sensitivity testing carried out indicates that the principal effect of the faster and slower growth scenarios is the effect on NO<sub>x</sub> emissions from road traffic, which are reducing as newer, cleaner cars enter the fleet. However, even in the faster growth scenario, pollutant concentrations are sufficiently low that the increased vehicle emissions do not present any risk of exceeding any AQOs. The faster growth case would, therefore, have no material impact on PM<sub>10</sub> and PM<sub>2.5</sub> and would not result in a significant effect.
175. The Officers' Report<sup>151</sup> agreed with the results presented in the ES, which were greater than those presented in the ESA, concluding that:

*"For human health, there are no predicted exceedances of the annual mean air quality objectives for PM<sub>10</sub> and PM<sub>2.5</sub>. For nitrogen dioxide (NO<sub>2</sub>) however all but two receptors locations are expected to incur increase concentrations, but the projected levels remain below the air quality objective [sic]. In terms of Local Air Quality Management, all receptors comply with acceptable levels, although some are close to these limits. To ensure this remains the case, ongoing monitoring will be required together with an air quality action plan to improve air quality. This can be secured through a S106 agreement."*<sup>152</sup>

### Challenges

176. The main challenges in respect of air quality are identified and responded to in section 5 of Mr Peirce's Proof of Evidence and his Rebuttal Proof.

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<sup>151</sup> CD4.11

<sup>152</sup> Page 83 (CD4.11).

177. It is notable that NSC's Statement of Case raises only two points of dispute in respect of the technical modelling methodology and the quantitative results produced by the assessment. These points are as follows:
- a. The impact of uncertainty regarding the air traffic forecasts, in particular the future fleet mix; and
  - b. The assessment of ultrafine particles ('UFPs').
178. In terms of the forecasting uncertainty, the evidence of Mr Peirce explains that concentrations of pollutants at relevant ground level receptors are not particularly sensitive to changes in aircraft emissions, such that uncertainty about fleet mix has limited impact on the air quality assessment.<sup>153</sup> Moreover, aircraft are not a major source of PM emissions, so the effect of fleet mix uncertainty has even more limited an impact.
179. With regard to UFPs, as NSC acknowledges<sup>154</sup>, there is currently no means of quantitatively assessing the impact of development on UFPs. This was recently acknowledged in the Stansted Appeal Decision.<sup>155</sup> The assessment of PM<sub>2.5</sub>, which in any event shows the impact of the proposed development to be negligible, is the best available means of assessing the impact on UFPs. We note that NSC's concern about the assessment of UFPs is an apparent departure from that set out in its Scoping Opinion<sup>156</sup>, in which NSC stated that the scope and methodology of assessment, which was to include NO<sub>2</sub>, PM<sub>10</sub>, PM<sub>2.5</sub> and NO<sub>x</sub>, was "*acceptable*".
180. NSC also raise matters relating to the proposed development's performance against policy concerning air quality impacts. NSC argue that:
- a. BAL's case fails to address the broader national and local policy agenda of needing to reduce the impact of the airport on air quality; and
  - b. The proposed development will not contribute to improving the health and well-being of the local population as a result of the increase in emissions of nitrogen oxide and PM, even taking into account the proposed mitigation.
181. In respect of the first point, as explained by Mr Peirce, the air quality assessment uses widely recognised and accepted guidance from the Institute of Air Quality Management ('IAQM') and

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<sup>153</sup> Proof of Evidence of Mr Peirce, para 5.2.60 (BAL/3/2).

<sup>154</sup> NSC Statement of Case, para 80 (CD21.2).

<sup>155</sup> CD9.107 para 58.

<sup>156</sup> CD4.9

Environmental Protection UK ('EPUK')<sup>157</sup>. This guidance recognises that (i) the priority is to assess the risk of air quality impacts breaching legal requirements and then (ii) to assess the significance of impacts even if they remain within those standards. The ES and ESA demonstrate there is no risk of any exceedance occurring, before proceeding to assessing the impacts even though they are within the AQALs. In any event, nowhere in national aviation policy, the NPPF or the development plan is there a requirement to maintain or reduce emissions.<sup>158</sup>

182. The criticism raised by NSC regarding the failure of the proposed development to contribute to the health and wellbeing of the local population by way of improving air quality is wrong in two respects.
183. First, as explained above, neither policy CS26, policy CS3 or policy CS23 of the Core Strategy<sup>159</sup> impose a positive requirement that all development improve health and well-being. What local policy requires (consistently with the NPPF) is that any adverse impacts are 'acceptable', taking into account the effect of mitigation.
184. Second, there is no basis in the air quality assessment on which to find that the proposed development would have a 'significant adverse impact' on health and well-being of residents in local communities. The ES and ESA show that all AQOs are complied with, and furthermore, that impacts on concentrations below the AQOs are small. As the evidence of Mr Pyper explains, what is relevant is the impact of environmental impacts on population health. The assessment in the HIA demonstrates that the proposed development would have a 'negligible' impact for the general population and 'minor adverse' for vulnerable groups.

#### Summary of BAL's Case

185. The approach adopted in the ES and ESA is in accordance with guidance. It addresses the pollutants that were agreed with NSC at the EIA scoping stage, in addition to providing an indication of the likely impacts on UFP concentrations (insofar as it is possible to do so).
186. The assessment is robust; any uncertainty regarding aircraft fleet forecasts or the precise year at which 12 mppa will be reached does not have a material impact on the conclusions of the assessment. The results indicate that the air quality impacts of the proposed development are

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<sup>157</sup> CD8.6 - Guidance on land-use planning and development control: Planning for air quality 2017 v1.2, Institute of Air Quality Management and Environmental Protection UK.

<sup>158</sup> Rebuttal Proof of Mr Melling, para 3.5.5 (BAL/7/3).

<sup>159</sup> CD5.6

small and are ‘not significant’ in EIA terms. Even using the more pessimistic assumptions in the ES, the Officers’ Report<sup>160</sup> found the impacts to be ‘acceptable’.<sup>161</sup>

187. To address the small increases in pollutants, mitigation is to be committed under a planning condition comprising of the preparation and implementation of an Air Quality Action Plan. This is in addition to the embedded mitigation built into the proposed development in order to reduce the air quality impact of the development.
188. As explained in the evidence of Mr Melling, the proposed development is consistent with national and local policy in respect of air quality impacts.

### **Health**

189. In accordance with policy CS26 of the Core Strategy<sup>162</sup>, BAL’s planning application was accompanied by an HIA in Chapter 16 of the ES<sup>163</sup>. This was subsequently updated by section 9 of the ESA<sup>164</sup>.
190. The Officers’ Report<sup>165</sup> considered the findings of the HIA and in so doing, Officers consulted Public Health England in addition to the Council’s Public Health Team.<sup>166</sup> Public Health England considered that the HIA was carried out in accordance with good practice and the methodology and scope was considered proportionate. Overall, the NSC Officers accepted the assessment set out in the ES and concluded that:<sup>167</sup>
- a. The HIA was “*realistic*”;
  - b. There were no additional population health impacts that needed to be mitigated;
  - c. The proposed development is likely to have a long-term beneficial effect on population health; and
  - d. There were “*no overriding health or well-being impacts which would warrant refusal of the application*” as long as the planning conditions and obligations that had been agreed with BAL were imposed.

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<sup>160</sup> CD4.11

<sup>161</sup> Page 83 (CD4.11).

<sup>162</sup> CD5.6

<sup>163</sup> CD2.5.42

<sup>164</sup> CD2.20.1

<sup>165</sup> CD4.11

<sup>166</sup> Officers’ Report (CD4.11), p.130.

<sup>167</sup> Officers’ Report (CD4.11), p.135.



191. Despite this, the impact of the proposed development on health is referred to in reason for refusal 2. It is relevant to the reason for refusal in the following two respects:
- a. The noise and air quality impact from the proposed development would have a *“significant adverse impact on the health and well-being of residents in local communities”*; and
  - b. The proposed development *“would not contribute to improving the health and well-being of the local population”*.
192. The development plan policies referred to in reason for refusal 2, namely, policies CS3, CS23 and CS26 have been discussed earlier.
193. The impact of the proposed development on population health was not identified by the Inspectors as a main issue at CMC1. Having received the Statement of Case of NSC, on 1 June 2021 BAL advised the Inspectors of its intention to call a health witness in order to respond to the points raised therein.

#### Nature of Health Impacts

194. The HIA assesses the impact of the proposed development on population health. The utility of an EIA health analysis is to provide a population level understanding of effects.
195. What the HIA is not directly concerned with is assessing the impact on individual health. Such an assessment would merely restate that for every health issue, there is a wide range of individual level responses based on behaviours, circumstances, genetics, chance and other such factors. Whilst conclusions of this nature may inform targeted mitigation measures, they have limited value for determining the overall acceptability of the proposed development within the framework of local and national policy, in addition to carrying a high likelihood of being inaccurate<sup>168</sup>. Nor would carrying out an individual assessment of health effects be proportionate to the nature of the proposed development.
196. This is entirely consistent with Public Health England’s Guidance on health in spatial planning<sup>169</sup>, which provides direction on assessing magnitude in terms of the significance of impacts for population health. The proportion of the population affected, in addition to other factors such as severity, the reversibility of the outcome and health service implications, feed into whether

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<sup>168</sup> Proof of Evidence of Mr Pyper, para 4.2.45 (BAL/8/2).

<sup>169</sup> CD[]

or not an impact is significant. In relation to the proportion of the population affected, an impact that is 'not significant' is defined as one that affects only "*a small minority of the population*" or "*very few people*". 'Significant' effects are those where a "*large minority of the population*" are affected (in the case of a moderate effect) or a "*majority of the population*" are affected (in the case of a major effect). The HIA explains that for adverse environmental exposures resulting from the proposed development, there would be a small change in health-related risk factors for a small minority of the population. It is concluded that there would not be significant population health effects, including for vulnerable groups. This conclusion is for both the population close to the airport and the wider local population.

197. It is unclear from the wording of reason for refusal 2, namely "*residents in local communities*", which 'population' the Committee members considered would experience a significant adverse impact.

#### ES and ESA Assessment of Impact

198. The conclusions reached in the ES and ESA demonstrate that the proposed development would have an overall beneficial impact on population health, as accepted in the Officers' Report<sup>170</sup>.
199. With regards to the impact of noise on population health (referred to in reason for refusal 2), the ES and ESA demonstrate that the significance of the effect would be 'negligible' for the general population and up to 'minor adverse' for vulnerable groups ('not significant' in EIA terms). This conclusion reflects that the magnitude of change would be low, but the effects would be experienced across a wide area.
200. Similarly, the air quality impact of the proposed development on population health is assessed to be 'negligible' for the general population and up to 'minor adverse' for vulnerable groups ('not significant' in EIA terms). This conclusion reflects the UK Government's view that compliance with AQOs and AQs demonstrates an acceptable level of health protection, and that these air quality protection measures are produced in the knowledge that particular groups within a population will have particular health vulnerabilities.
201. The expansion of the airport will, however, deliver important socio-economic benefits, in particular, the provision of good quality employment opportunities both directly at the airport, and indirectly through wider economic investment within the region enabled by the proposed development. Such opportunities have the potential to deliver long-term health benefits

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<sup>170</sup> CD4.11

through reducing levels of poverty and inequality, as well as through additional household resources. The ES and ESA assessment concludes that the significance of this effect would be up to ‘minor beneficial’ for the general population and up to ‘moderate beneficial’ (‘significant’ in EIA terms) for vulnerable groups.

202. The ESA demonstrates that the precise timing of growth in passenger demand does not have a material effect on the population health impacts of the proposed development.

### Challenges

203. The Proofs of Evidence of Mr Fiumicelli<sup>171</sup> (in relation to noise) and Dr Broomfield<sup>172</sup> (in relation to air quality) raise a number of challenges relating to the impact of the proposed development on health. Where these points concern technical aspects of the noise and air quality impact assessments, they are identified and responded to in section 5 of the Proofs of Evidence of Mr Williams<sup>173</sup> and Mr Peirce<sup>174</sup> and their Rebuttal Proofs. The points that concern the methodology and results of HIA are identified and responded to in detail in the Proof of Evidence of Mr Pyper and his Rebuttal Proof<sup>175</sup>.

### Summary of BAL’s Case

204. The inputs to the assessment of the proposed development on health, namely, noise, air quality and socio-economic benefits, are robust. The approach adopted in the ES and ESA for determining the significance of health impacts is in line with national and international guidance on good practice.
205. Standing back, there is simply no evidential basis on which to argue that the proposed development will have a “*significant adverse impact*” on health at a population level. This is a conclusion with which NSC Officers, Public Health England and NSC’s Public Health Team all agree with. Indeed, the assessment indicates that the proposed development would have a beneficial impact on population health through the provision of real socio-economic benefits such as good quality employment.

### **Climate change**

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<sup>171</sup> NSC/W2/1

<sup>172</sup> NSC/W3/1

<sup>173</sup> BAL/2/2

<sup>174</sup> BAL/3/2

<sup>175</sup> BAL/8/2

206. The greenhouse gas emissions generated by the proposed development and the associated impact on climate change forms the basis for reason for refusal 3. That reason for refusal makes three allegations, namely that the scale of greenhouse gas emissions generated (i) *“would not reduce carbon emissions”*, (ii) *“would not contribute to the transition to a low carbon future”* and (iii) *“would exacerbate climate change”*. The legal and policy provisions cited are the NPPF, policy CS1 of the Core Strategy and the duty in the Climate Change Act 2008 to achieve the ‘net zero’ target by 2050.
207. The impact of the proposed development on greenhouse gas emissions and the ability of the UK to meet its climate change obligations was identified by the Inspectors as CMC1 issue (f).

#### Legal and Policy Context

##### *Paris Agreement*

208. The Paris Agreement<sup>176</sup> is a legally binding international treaty on climate change within the framework of the United Nations Framework Convention on Climate Change (‘UNFCC’)<sup>177</sup>. It was adopted at COP21 in Paris on 12 December 2015 and entered into force on 4 November 2016.
209. The Paris Agreement sets out the *“long term temperature goal”*<sup>178</sup> of limiting global warming to *“well below”* 2 degrees Celsius above pre-industrial levels and *“pursuing efforts to limit the temperature increase to 1.5 degrees Celsius above pre-industrial levels”*<sup>179</sup>.
210. In order to achieve the ‘long term temperature goal’, parties aim to reach global peaking of greenhouse gas emissions as soon as possible and to undertake rapid reductions thereafter in accordance with best available science *“so as to achieve a balance between anthropogenic emissions by sources and removals by sinks of greenhouse gases in the second half of this century”* (this is, in effect, ‘net zero’)<sup>180</sup>. The mechanism by which these ambitions are delivered is through each country publishing and accounting for ‘Nationally Determined Contributions’ (‘NDC’)<sup>181</sup>. The UK submitted its NDC in December 2020.

##### *Climate Change Act 2008*

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<sup>176</sup> CD9.26

<sup>177</sup> CD9.19

<sup>178</sup> Article 4(1).

<sup>179</sup> Article 2(1)(a).

<sup>180</sup> Article 4(1).

<sup>181</sup> Article 4(2) and 4(13).

211. The UK's contribution towards meeting the 'long term temperature goal' in the Paris Agreement is enshrined in domestic law through the Climate Change Act 2008 ('CCA')<sup>182</sup>. When the CCA came into force in December 2008 it placed a duty on the Secretary of State to ensure that the 'net UK carbon account' for the year 2050 is at least 80% lower than the 1990 baseline (section 1(1)), but this 'target' was subsequently amended in June 2019 to be at least 100% below the baseline (this is the UK's 'net zero' target).
212. In addition to the 2050 target, the CCA imposes an obligation on the Secretary of State to set five yearly carbon 'budgets' in order to achieve the 2050 target.<sup>183</sup> Each five yearly budget is to be set 12 years in advance as a series of interim targets. Section 4 places an obligation on the Secretary of State to ensure that the carbon budget is met.
213. Section 32 of the CCA established the Committee on Climate Change ('CCC') to advise the Government on matters relating to climate change, including the carbon target,<sup>184</sup> carbon budgets<sup>185</sup> and international aviation<sup>186</sup>.
214. Six carbon budgets have been adopted to date. The fifth, which runs for the period between 2028 and 2032, was set in 2016.

#### *Role of the CCC*

215. It is important to appreciate the role of the CCC, and the limitations on that role. The CCC exists to advise Government. Its advice must be taken into account by the Government in making policy and setting climate change strategy, including the five yearly carbon budgets. The role of the CCC is not, however, to make Government policy. Nor is there any obligation on the Government to adopt every recommendation made by the CCC. Its advice is but one consideration in a much wider range of factors that must be taken into account when determining the direction of Government policy.
216. That this is the case can be seen from the Government's departure from certain recommendations contained in the CCC's 2020 Sixth Carbon Budget Report<sup>187</sup>.
217. In that report, the CCC recommended that international aviation be brought into the net zero carbon budget, rather than being within a 'planning assumption' (as explained later). The CCC

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<sup>182</sup> CD9.2

<sup>183</sup> Sections 5 and 8, CCA.

<sup>184</sup> Section 33, CCA.

<sup>185</sup> Section 34, CCA.

<sup>186</sup> Section 35, CCA.

<sup>187</sup> CD9.66

considered five scenarios for managing aviation emissions; Balanced Pathway, Headwinds, Widespread Engagement, Widespread Innovation and Tailwinds. As part of the Balanced Pathway option, the CCC recommended that aviation measures are required to reduce sector emissions to 23 MtCO<sub>2</sub>e/year by 2050 for international, domestic and military aviation.

218. On 20 April 2021, the Government announced that the Sixth Carbon Budget will include international aviation and shipping, in line with the CCC's recommendations<sup>188</sup>. It announced that the carbon budget was based on a reduction of 78% of emissions compared to the baseline of 1990 by 2035. However, the press release also stated that the Government would *"look to meet this reduction target through investing and capitalising on new green technologies and innovation, whilst maintaining people's freedom of choice, including on their diet."* It made clear that the carbon budget target was based on the Government's own analysis and that it did not follow each of the CCC's specific policy recommendations. This was recognised in the recent Inspectors Report into the recent Stansted Airport appeal<sup>189</sup>. It is also clear from the Government's Jet Zero consultation, which says in terms that *"Our analysis shows that there are scenarios that can achieve similar or greater CO<sub>2</sub> reductions to those in the CCC's Balanced Pathway (which limits growth to 25% by 2050 compared to 2018 levels compared to a baseline of 65% growth) by focussing on new fuels and technology, with the knock-on economic and social benefit, rather than capping demand."*<sup>190</sup>

#### *The Place of Aviation in the Context of Carbon Targets and Budgets*

219. Section 10 of the CCA requires that, in setting carbon budgets, the Secretary of State *"take into account"*<sup>191</sup> *"the estimated amount of reportable emissions from international aviation and international shipping for the budgetary period or periods in question"*<sup>192</sup>. The *"estimated amount of reportable emissions"* means *"the aggregate of the amounts relating to emissions of targeted greenhouse gases from international aviation ... that the Secretary of State ... will be required to report for that period in accordance with international carbon reporting practice"*<sup>193</sup>.
220. Section 30(1) of the CCA provides that *"[e]missions of greenhouse gases from international aviation or international shipping do not count as emissions from sources in the United Kingdom for the purposes of this Part, except as provided by regulations made by the Secretary of State..."*.

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<sup>188</sup> CD9.109

<sup>189</sup> CD9.107

<sup>190</sup> CD[] para 3.41 9

<sup>191</sup> Section 10(1), CCA.

<sup>192</sup> Section 10(2)(i), CCA.

<sup>193</sup> Section 10(3).

221. Emissions from international aviation and shipping were not, therefore, formally included within the first to fifth carbon budgets. Instead, these emissions were ‘taken into account’ in accordance with the CCA by setting the budgets at a level that allowed ‘headroom’ for these emissions; in other words, the budgets were set lower by the amount of the headroom. The figure allowed for aviation emissions in the first to fifth carbon budgets was 37.5MtCO<sub>2</sub> per annum; this figure is also known as the ‘planning assumption’.
222. On 21 April 2021, the UK Government announced the Sixth Carbon Budget. This budget covers the period from 2033 to 2037 and is set to align with the UK’s latest NDC under the Paris Agreement. At the same time, the Government announced a new target to reduce emissions by 78% compared to 1990 levels by 2035.
223. For the first time, the Sixth Carbon Budget will formally include emissions from international aviation and shipping within the budget figure, rather than being accounted for as a ‘planning assumption’. Whilst this changes the formal means of reflecting emissions from international aviation in a carbon budget, it does not change the fact that such emissions have always been accounted for in budgets.
224. The Sixth Carbon Budget Order 2021<sup>194</sup> provides that “[t]he carbon budget for the 2033-2037 budgetary period is 965,000,000 tonnes of carbon dioxide equivalent”. It is not further broken down and, as there is no longer any ‘headroom’ to be taken into account, there is no ‘planning assumption’ for this budget.
225. Since 2005, the UK has participated in the EU Emissions Trading Scheme (‘EU ETS’), which has included the aviation sector since 2012. As part of the UK’s withdrawal from the EU, the UK ETS has replaced the UK’s participation in the EU ETS with effect from 1 January 2021. The UK ETS was established through the Greenhouse Gas Emissions Trading Scheme Order 2021<sup>195</sup>. Aviation within the European Economic Area (‘EEA’) has been brought within the UK ETS and it is anticipated that airlines will be given allocations of carbon allowances that will be consistent with UK carbon budgets. Beyond such allocations, airlines will have to purchase additional allowances under a ‘cap’ and trade’ system.
226. Under the UK ETS, a cap on allowances each year will initially be set at 5% below the UK’s expected notional share of the EU ETS cap. The Government has stated its intention to consult

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<sup>194</sup> CD9.38

<sup>195</sup> CD9.36

on an appropriate trajectory for the UK ETS cap following the CCC's Sixth Carbon Budget Report, with the aim of aligning the cap with the net zero trajectory by January 2023.<sup>196</sup>

227. The Government has consulted on the interaction between the UK ETS and the UN's CORSIA, a global measure adopted in 2016 by the International Civil Aviation Organisation ('ICAO') to supplement industry initiatives to reduce carbon emissions. CORSIA will apply to those emissions not covered by the UK ETS (i.e. flights beyond the EEA) and enables airline operators to purchase carbon credits from the carbon market to offset emissions. CORSIA has three phases; the pilot and first phase which run from 2021 to 2023 and 2024 to 2026 respectively, and the second which runs from 2027 to 2035. The pilot and first phases, in which the UK intends to participate, are voluntary. The second phase would include the majority of countries based on the proportion of aircraft movements. The Government's recently published Jet Zero Consultation document emphasises the importance of international agreement in meeting the challenges of climate change.<sup>197</sup>
228. In its consultation, the Government has reiterated its intention to fully participate from the start of the scheme in 2021. As explained by Mr Ösund-Ireland in his Proof of Evidence,<sup>198</sup> seven policy options for the interrelation between the UK ETS and CORSIA have been proposed, with a preference for a 'supply adjusted' hybrid scheme under which aeroplane operators could claim a reduction in their UK ETS obligations equivalent to their CORSIA obligations on flights from the UK and EEA states. The outcomes of the consultation on the detailed design of the CORSIA-UK ETS interaction are expected to be published during the summer.
229. While other parties to the appeal have criticised the measures taken by Government in this regard, it is a matter for Government to control aviation emissions consistently with its 'net zero' target. The Government clearly retains the ability to take further action and bring into force additional measures in order to meet its climate change obligations, if such further measures are necessary. The Government's 'Decarbonising Transport' Plan<sup>199</sup>, which was published alongside the Jet Zero Consultation<sup>200</sup>, signals just this: it makes clear that whilst certain measures to be adopted in order to meet the Sixth Carbon Budget have been outlined in the Plan, the Government will continue to "*develop and refine*" them "*to ensure that the*

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<sup>196</sup> Explanatory Memorandum to the Greenhouse Gas Emissions Trading Scheme Order 2020 (CD9.45).

<sup>197</sup> Page 16ff (CD[]).

<sup>198</sup> Para 3.4.10

<sup>199</sup> CD[]

<sup>200</sup> CD[]



*transport sector fulfils its contribution to our legally binding climate targets*<sup>201</sup>. This is entirely consistent with, and reflective of, the intentions of the UN in formulating the framework provided by the Paris Agreement, under which contributions are nationally determined and accounted for by state Governments.

230. This is also reflected in MBU<sup>202</sup>, which recognises that it is not for local development control policies to seek to control carbon emissions from domestic and international aviation; those are matters of policy for a national, and indeed, international level. Nor is it a matter for development control decisions such as this to determine how best the UK may meet its climate change commitments.
231. While many parties to this Inquiry criticise and dispute the approach to aviation emissions adopted by the UK Government, it is simply not a matter for these Inspectors to determine and nor have they been asked to advise Government on the formulation of its national strategy on this.

#### ES and ESA Assessment

232. The approach to the assessment of emissions associated with the proposed development has been to forecast the relevant sources for the 'with development' scenario and 'without development' scenario for 2024, 2030, 2040 and 2050. There are five relevant sources; aviation, surface access, airport buildings and operations, and construction (including embodied carbon). The assessment uses a range of scenarios in order to reflect the uncertainties in the projection. These included an upper emission scenario, central emission scenario and lower emission scenario, reflecting different levels of greenhouse gas emissions based on policy or market trends.
233. As shown in the evidence of Mr Ösund -Ireland, the assumptions made in the ES and ESA about the future reductions in emissions from aviation can be described as a "*reasonable worst case*" when compared to the five scenarios considered by the CCC in the Sixth Budget Report.<sup>203</sup>
234. The methodology adopted in the ES and ESA,<sup>204</sup> and the results of the calculation of carbon emissions, were agreed with NSC Officers.<sup>205</sup>

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<sup>201</sup> CD[] p. 44.

<sup>202</sup> CD6.4

<sup>203</sup> Proof of Evidence of Mr Ösund -Ireland, para 4.2.2 (BAL/6/2).

<sup>204</sup> Proof of Evidence of Mr Ösund -Ireland, para 4.2.4 (BAL/6/2).

<sup>205</sup> Proof of Evidence of Mr Ösund -Ireland, para 4.2.6 (BAL/6/2).

### *Assessment of Significance*

235. The assessment of significance in the ES and ESA is based on a combination of receptor sensitivity and magnitude of impact.
236. In accordance with IEMA Guidance<sup>206</sup>, the relevant receptor for the assessment of greenhouse gas emissions is the global climate, which is considered highly sensitive.
237. The ESA has carried out two assessments of significance as follows:
- a. The extent to which the scheme materially affects the ability of the UK to meet the aviation ‘planning assumption’; and
  - b. The extent to which the scheme affects the ability of the UK to meet its carbon budgets and target of net zero greenhouse gas emissions by 2050.
238. With regards to the first, the evidence of Mr Ösund-Ireland explains that the proposed development would result in an additional contribution of between 0.17 to 0.20% of the planning assumption in 2050. This incremental increase is not significant when compared with the planning assumption of 37.5 MtCO<sub>2</sub> or, indeed, the lower figure of 23 MtCO<sub>2</sub> used by the CCC in its balanced pathway option to net zero. The proposed increase in carbon emissions from the expansion of Bristol Airport is one of the lowest of the various proposed airport projects,<sup>207</sup> and well below the contribution of the recently consented Stansted Airport expansion. Moreover, the assessment indicates that Bristol Airport’s share of emissions from international flights departing from the UK is unlikely to increase with the proposed development, and the proposed development would most likely result in aviation emissions being reduced compared to 2017.<sup>208</sup>
239. With regards to the second assessment of significance, the ESA assesses aviation emissions at 443.01 ktCO<sub>2</sub> in 2050 (as the central scenario), which represents a decrease of 6% compared to the 2017 baseline. Whilst aviation emissions can be influenced by BAL, as outlined previously they are subject to control by the Government at a national level. The Government has put in place mechanisms to control aviation emissions and ensure that it would not be prevented from achieving net zero emissions by 2050. This includes the Sixth Carbon Budget and the inclusion

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<sup>206</sup> CD9.47

<sup>207</sup> Proof of Evidence of Mr Ösund -Ireland, Table 4.3 (BAL/6/2).

<sup>208</sup> Proof of Evidence of Mr Ösund -Ireland, paras 4.3.8 to 4.3.12 (BAL/6/2).

of both domestic and international aviation emissions within the UK ETS, which can be supplemented by CORSIA.

240. It is also important to note also that the quantum of emissions in BAL's ESA does not reflect the trajectory to decarbonise aviation, as set out in the Decarbonising Transport plan. In other words, the move to Jet Zero for the UK's domestic and international aviation will also be reflected in the emissions of flights to / from Bristol airport, meaning that its forecast emissions will reduce over time compared with the quantified figure given. Thus the emissions in the ESA are very much a 'worse case' in the long term.
241. The inclusion of domestic and EEA flights within the UK ETS provides a robust mechanism for the Government to ensure that emissions are capped and reduced over time, aligned with its net zero target.
242. This is consistent with the High Court's recent rejection of a challenge to the design of the UK ETS in the case of *R (Elliot-Smith) v Secretary of State for Business, Energy and Industrial Strategy* [2021] EWHC 1633. The Claimant argued *inter alia* that the Secretary of State had failed to take into account the imperative in Article 4(1) of the Paris Agreement to urgently limit greenhouse gas emissions in the short-term, separately from the need for action to meet longer term goals. In so doing, it was argued that the total emissions cap under the UK ETS was too high to meet such goals.
243. The High Court rejected the ground of challenge and recognised that the Paris Agreement was an unincorporated international treaty and, indeed, that it was not the role of the Court to resolve definitively questions of construction of the Paris Agreement. Furthermore, it held that the Government's interpretation of the Paris Agreement was "*entirely appropriate*" and did not deny the urgency of the need to address climate change, but recognised that taking actions in the short-term is an essential part of achieving the longer-term objective.
244. In light of this, there can be no debate about the appropriateness or otherwise of the way in which the UK ETS is meant to operate with regards to the Government's climate change obligations.
245. With regards to non-aviation emissions from the airport's buildings and ground operations, these are under the direct control of BAL. BAL has already done significant work to reduce these emissions, which will be supplemented and strengthened by the CCCAP. Indeed, BAL has

published a draft CCCAP<sup>209</sup> which embodies its vision to be carbon neutral by 2021 for Scope 1 and 2 emissions<sup>210</sup>, carbon ‘net zero’ by 2030 and the longer term aim for the airport as a whole being carbon ‘net zero’ by 2050. The draft section 106 agreement for the proposed development provides a number of measures to improve public and active transport access, in order that BAL may continue to influence surface action emissions. These measures supplement BAL’s practice of offsetting surface access to the airport by passengers travelling by road, which it adopted in 2020. As such, the non-aviation emissions from the proposed development are assessed as ‘not significant’.

246. Overall, granting planning permission for the proposed development cannot prejudice the Government’s ability to meet the net zero target by 2050. The proposed development is consistent with national policy, which recognises that it is for the Government to control aviation emissions at a national level; measures, such as the UK ETS, are in place to do so. If the measures adopted prove ineffective or insufficient, it is for the Government to take further action in order to ensure that the ‘net zero’ target is met.

#### Challenges

247. Seven main challenges are presented in the Statements of Case and evidence of NSC and other parties to the Inquiry. These can be grouped under the following themes:
- a. The proposed development does not satisfy policy relating to greenhouse gas emissions and climate change:
    - i. At an international level, it is contrary to UNFCCC Article 3 and reliant on CORSIA;
    - ii. At a national level, it is contrary to (i) the NPPF’s objectives for sustainable development, (ii) the UK’s declaration of a climate emergency, and (iii) the commitment to net zero by 2050; and
    - iii. At a regional and local level, it is contrary to policy CS1 CS2, CS23 and or DM50 of the development plan.
  - b. The proposed development does not satisfy legal requirements in the CCA and the UK target of net zero by 2050;

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<sup>209</sup> CD9.48

<sup>210</sup> Scope 1 are direct emissions resulting from an organisation’s activities; Scope 2 emissions are indirect emissions from the production of energy used by an organisation.

- c. The assessment presented in the ES and ESA is insufficient, including for the following reasons:
  - i. It does not comply with WebTAG unit A5.2; and
  - ii. There is no cumulative assessment for climate change effects arising with other airport expansion projects; and
  - iii. The effect of non-CO<sub>2</sub> warming has been ignored.

248. These points of challenge are identified and responded to in section 6 of the Proof of Evidence of Mr Ösund-Ireland, and his Rebuttal Proof<sup>211</sup>. To the extent that these matters have not been addressed already in this opening, BAL's summary responses are as follows:

- a. The proposed development would not impede the UK Government meeting its international obligations nor would it require reliance on CORSIA. It is well established that the UNFCCC is an international treaty, the obligations under which only have effect in domestic law to the extent that they have been incorporated. In any event, the scope of these international treaties excludes emissions from international aviation.<sup>212</sup> The UK's inclusion of international aviation emissions in the Sixth Carbon Budget demonstrates the Government going beyond the ambitions of UN treaties. The UK Government's position is that emissions from aviation are included within the UK ETS, which will only be integrated with CORSIA to the extent that the Government considers appropriate. This is not, however, a matter for debate in the context of this appeal;
- b. As we have explained, the assessment presented in the ESA demonstrates clearly that the proposed development would not be inconsistent with the Government's 'net zero' target. The control of emissions from aviation is a matter for Government, and not the NPPF, regional or local policy. The proposed development's compliance with such policies is discussed in the Proof of Evidence of Mr Melling<sup>213</sup>;
- c. The relevance of WebTAG unit A5.2 to the assessment of the proposed development is explained in detail in the evidence of Mr Brass<sup>214</sup> and Mr Ösund-Ireland<sup>215</sup>. In short, there is no requirement to comply with WebTAG unit A5.2, which in any event is not suitable

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<sup>211</sup> BAL/6/2 and BAL/6/3.

<sup>212</sup> See Mr Ösund -Ireland's Proof of Evidence, para 6.2.2 to 6.2.9 (BAL/6/2).

<sup>213</sup> Section 4.5 BAL/7/2.

<sup>214</sup> Section 5.7 BAL/5/2.

<sup>215</sup> Para 6.2.25 to 6.2.34, BAL/6/2.

for an assessment of the proposed development. The guidance was designed to apply to Government ‘interventions’ in the aviation industry<sup>216</sup>; not local development control decisions. Nor is it an appropriate tool for considering a modest increase in the planning cap at a regional airport, funded by private sector investment and not reliant on wider public sector infrastructure investment or other Government intervention;

- d. With regards to the need to carry out a ‘cumulative assessment’, the assessment in the ES, ESA and the evidence of Mr Ösund -Ireland has contextualised the emissions from the proposed development against the ‘planning assumption’. It has also identified emissions from other known expansion projects and explained the effect of including aviation within the Sixth Carbon Budget in the context of the UK ETS and CORSIA. Setting carbon budgets and the allocation of allowances under the UK ETS are, by their nature, cumulative exercises. They are set at a national level and apply equally to all UK airlines. Whilst the 2017 EIA Regs<sup>217</sup> require the cumulative assessment of the proposed development with other projects<sup>218</sup>, this is limited to those that are consented and/or approved and does not include any obligation to assess the cumulative impacts of emissions on the global climate as a receptor. This is indicative of the fact that climate change is a matter of national, and indeed international, concern. There is no need for any further cumulative assessment, either in law or policy, of all known airport expansion projects; and
- e. As recognised by the CCC in its Sixth Budget Report<sup>219</sup>, the UK Government in Aviation 2050<sup>220</sup> and, recently, by the Inspectors into the Stansted Airport appeal<sup>221</sup>, there is great uncertainty in assessing the climate change impact of non-CO<sub>2</sub> emissions. BAL acknowledges in its draft CCCAP that non-CO<sub>2</sub> impacts cannot be ignored, but in light of the scientific uncertainty, this is not a reasonable basis to resist the proposed development (as found by the Inspectors into the Stansted Airport appeal<sup>222</sup>).

#### Summary of BAL’s Case

249. The Paris Agreement is an unincorporated international treaty that does not have direct effect in domestic law, save to the extent that it has been so incorporated. The relevant legal climate

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<sup>216</sup> WebTAG unit A5.2 (CD11.8) para 1.1.1

<sup>217</sup> CD5.5

<sup>218</sup> Regulation 18(3)(f) and Schedule 4(5).

<sup>219</sup> CD9.64/5

<sup>220</sup> CD9.29

<sup>221</sup> CD9.107

<sup>222</sup> Para 98.

change obligations in the UK are those set out in the CCA, as was confirmed by the Supreme Court in *R (Friends of the Earth Ltd and others) v Heathrow Airport Ltd* [2020] UKSC 52 and reiterated, more recently, in the decision of *Elliot-Smith*.

250. The assessment in the ESA considers first the contribution of the proposed development in terms of the first to fifth carbon budgets. On any reasonable assessment, the contribution of the proposed development in this context is very small. With regards to the Sixth Carbon Budget and beyond, the contribution is still small, but must be understood in the context of the ‘cap’ and ‘trade’ mechanism within the UK ETS and CORSIA. Beyond that, it is for the Government to take further measures, if such measures become necessary, to ensure that the 2050 carbon target is achieved.
251. As MBU makes clear, climate change is a matter of national policy and MBU itself remains current Government policy. Emissions from aviation can only sensibly be controlled at the national level, with the UK Government providing clear mechanisms for capping aviation emissions within UK carbon budgets, and encouraging the industry to drive emission reductions through innovation to “*make best use*” of runways.
252. Whilst other parties have raised queries regarding the impact of the expansion of Heathrow Airport, it is for Heathrow to make its own case for development consent; that is not a matter for this Inquiry.
253. With regards to non-aviation emissions and surface access emissions, BAL’s proposed CCCAP is robust, and sets out how the proposed development will meet the requirements of the NPPF and would not be contrary to NSC Core Strategy policies CS1, CS3, CS23 and DM50 of the DMP.

### **Transport**

254. Bristol Airport is located in a generally rural area 11km south west of Bristol. It has close links to Bristol and Bath, as well as some larger towns such as Weston-super-Mare, and smaller towns and villages across North Somerset and Bath and North East Somerset (‘B&NES’).
255. Historically, access to the airport has been heavily car dependent. The primary access to the airport is by the A38, which runs north to Bristol and south west to Weston-super-Mare. As part of the 2011 Permission, an ambitious passenger public transport mode share target of 15% was agreed and supported by substantial enhancements. Despite not having yet reached 10 mppa,

BAL has made significant progress towards delivering public transport enhancements<sup>223</sup> and achieving an enhanced public transport mode share.

256. The impact of the proposed development in terms of highways, transport and car parking is relevant to reasons for refusal 1, 4 and 5.
257. Reason for refusal 1 relates to *inter alia* the generation of additional traffic and off-airport car parking and the impact on “*an inadequate surface access infrastructure*”. Reason for refusal 4 relates to the proposed extension to the Silver Zone car park and the year round use of the seasonal car park. Whilst this reason for refusal relates primarily to the application of Green Belt policy, the assessment of car parking demand informs this analysis. Reason for refusal 5 relates to the claimed insufficiency in the proposed public transport provision and the extent to which it will reduce reliance on access to the airport by car.
258. The Inspectors identified the effects of the proposed development upon sustainable transport objectives, the highway network, highway safety and parking provision as CMC1, issue (c).

#### Policy Context

##### *National Policy*

259. The NPPF is a material consideration for the purpose of the determination of this appeal. The relevant paragraphs from the NPPF are as follows:
- a. Paragraph 103 encourages the focussing of significant development on locations which are or can be made sustainable, through offering a genuine mode of transport choices. However, as recognised by the NPPF, it should be taken into account that opportunities to maximise sustainable transport solutions vary between urban and rural areas;
  - b. Paragraph 109 makes clear that development should only be refused on highway grounds if its project impacts are severe, and cannot be mitigated;
  - c. Paragraphs 108 and 110 seek to ensure that applications for development take opportunities to increase sustainable transport modes;
  - d. Paragraph 111 requires development proposals that generate significant additional traffic to include a transport assessment and a sustainable travel plan to reduce vehicle trips.

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<sup>223</sup> Proof of Evidence of Mr Witchalls, para 4.3.1 to 4.3.2 (BAL/4/2).



### *Regional and Local Policy*

260. The West of England Joint Local Transport Plan 4 ('JLTP')<sup>224</sup> was adopted in March 2020 and sets out the strategy for improving connectivity in the West of England. For trips beyond the region, the focus is primarily on *"supporting the role of the ... airport"*.<sup>225</sup> Policy B1 seeks to *"enhance competitiveness of major gateways and improving connectivity to international markets"* by means of working with Bristol Airport to maximise the airport's transport connectivity as a local, sub-regional and regional transport interchange.<sup>226</sup> In particular, the JLTP sets out the objective of working to *"increase public transport in the short term with improvements to bus and coach services serving the airport, and in the long term through a high-frequency mass transit corridor."* The mass transit corridor is identified as a long term and high cost *"Transformational Major Scheme"*.
261. The JLTP includes a number of other potential early investment schemes. This includes A38 improvements between the A368 and Bristol Airport, and improvements to the Downside Road junction. The latter is proposed to be delivered by BAL as part of the proposed development.
262. The following policies of the NSC Core Strategy<sup>227</sup> and DMP<sup>228</sup> are relevant to CMC1 issue (c):
- a. Policy CS1 of the Core Strategy sets out principles applicable to addressing climate change and carbon reduction. It provides that opportunities for walking, cycling and the use of public transport should be maximised through new development, emphasising the aim to encourage and facilitate modal shift towards more sustainable transport modes in existing areas;
  - b. Policy CS10 of the Core Strategy relates to transportation and movement. It provides support for development proposals that encourage an improved and integrated transport network, and allow for a wide choice of modes of transport;
  - c. Policy CS11 of the Core Strategy relates to car parking. Insofar as it is relevant to the proposed development, it requires that adequate parking is provided and managed to meet the needs of anticipated users;

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<sup>224</sup> CD7.5

<sup>225</sup> Page 34.

<sup>226</sup> Pages 37 – 38.

<sup>227</sup> CD5.6

<sup>228</sup> CD5.4

- d. Policy CS23 of the Core Strategy relates to the airport specifically. It provides that *“proposals for the development of Bristol Airport will be required to demonstrate the satisfactory resolution of environmental issues, including the impact of growth on surrounding communities and surface access infrastructure”*;
- e. Policy DM24 of the DMP provides that development will not be permitted if it would prejudice highway safety. Development giving rise to a significant number of travel movements will only be permitted if it is (i) not likely to have a severe residual cumulative impact on traffic or (ii) generate traffic that cannot be accommodated without demonstrable harm to the character and function of the surrounding area, and (iii) is accessible by non-car modes that can readily be integrated with public transport where appropriate. Development which gives rise to a significant detrimental impact on travel patterns or exacerbates existing transport problems will only be permitted where acceptable counter measures or mitigation is possible. Where a development is otherwise acceptable, planning permission may be granted subject to legal agreements to fund necessary improvements;
- f. Policy DM50 of the DMP relates to Bristol Airport. It provides that development in the Green Belt inset will be permitted provided that, *inter alia*, appropriate provision is made for surface access to the airport.

#### Transport Assessment and Transport Assessment Addendum

##### *Discussions with NSC*

- 263. From early EIA scoping discussions in June 2018, BAL worked closely with NSC to develop the methodology and approach to be adopted for the Transport Assessment ('TA')<sup>229</sup>. NSC Officers benefited from expert advice from transport consultants, Jacobs.
- 264. Through this process, the assessment approach to be adopted was agreed with NSC Officers and Highways England, including aspects such as the study area, the parameters of the assessment, the assessment approach and the basis for the TA forecasts.
- 265. In May 2019 BAL's transport consultants produced a TA Supplementary Document in order to capture all changes agreed with NSC, South Gloucestershire, B&NES and Highways England. Two further notes were produced by BAL in order to address further concerns raised by NSC with regard to some of the junction modelling.

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<sup>229</sup> CD2.9.1

266. Even after the submission of the application, BAL and their consultants continued to meet with NSC and Highways England between January 2019 and July 2019. A number of requests for additional information were made, such as a review of current passenger mode shares for other UK airports and further detail on the passenger trip generation methodology, which BAL responded to in detail.

#### *Officers' Report*

267. The Officers' Report<sup>230</sup> considered in detail the impact of the proposed development in relation to transport and concluded as follows:
- a. With regards to the surface access strategy, Officers had no objections and considered that it complied with relevant policies in the Core Strategy, JLTP and the NPPF;
  - b. With regards to the vehicle trip number and impacts, it was concluded that *"the proposed development would not have an unacceptable effect in terms of vehicle trip numbers and impacts"* subject to the agreed mitigation. It was considered to accord with relevant policies of the North Somerset Development Management Policies: Sites and Policies Plan Part 1 ('DMP')<sup>231</sup>.
  - c. In respect of the proposed highway works, the Report concluded that they were considered to be *"proportionate to the added traffic impacts"*, and therefore were acceptable under policies in the Core Strategy and DMP.

#### *The Transport Assessment Addendum*

268. The Transport Assessment Addendum ('TAA')<sup>232</sup> provided an updated assessment taking into account the updated passenger forecasts prepared by York Aviation. As with the other updated assessments, the faster and slower growth cases were used to carry out qualitative sensitivity testing. This demonstrated that the impacts were not materially different to those reported in the TA as a result of different rates of growth. Overall, the conclusions of the TA remained unchanged.
269. The forecast travel demand was determined using forecast data, mode share targets of 15% for the 10 mppa case (previously agreed with NSC) and 17.5% for the 12 mppa case, and data from the 2019 and 2015 Civil Aviation Authority ('CAA') passenger surveys to establish proportionate

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<sup>230</sup> CD4.11

<sup>231</sup> CD5.4

<sup>232</sup> CD2.20.3

car mode splits. The 2018 baseline traffic was factored up to 2030 using TEMPro data to reflect the Core Case.

270. This data was used to identify predicted impacts on traffic flows in the network study area, in order to establish whether the flow increases could have potentially significant adverse effects. Junction capacity testing was carried out to determine the impact of the proposed development.
271. Overall, the TAA has demonstrated that with the proposed improvements to the A38, the proposed development would not have a significant adverse impact on the operation of the wider local or strategic highway network, taking into account the “worst-case” scenario in terms of traffic flow forecast. In the 2030 Core Case, the TAA showed that most junctions would operate within capacity, or where this was not the case, the impacts would not be severe.

#### A38 Improvements

272. As a result of the junction capacity testing, a junction improvement scheme was proposed at the A38/Bristol Airport roundabout (J1) and the A38/Downside Road/West Lane junction (J4). These junction improvements were subject to a rigorous design and development process. The design of the improvements was issued to NSC in April 2019 and agreed with NSC Officers at that time (May 2019).<sup>233</sup>
273. At the time of the Officers’ Report, the position of NSC Officers was that the proposed works would *“improve traffic flow and safety in the immediate vicinity of the airport and are proportionate mitigation in relation to the projected impacts arising from the proposed development. The detailed drawings submitted with the application showing the proposed highway works are acceptable, although some final specifications will need to be agreed before works can commence. This can be controlled by planning condition.”*<sup>234</sup>
274. We note that the design of the junction improvements is not a matter that features in the reasons for refusal. It was not until receipt of NSC’s transport evidence that BAL understood the full extent and nature of the issues now raised by NSC. This is particularly surprising given that the junction improvements were developed in collaboration with NSC Officers. Because of this, Mr Witchalls was not in a position to address these issues in his Proof of Evidence, however his Rebuttal Proof responds in detail to the concerns raised.

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<sup>233</sup> Rebuttal Proof of Evidence of Mr Witchalls, Appendix C (BAL/4/5).

<sup>234</sup> Page 100.

275. To facilitate these improvements, on 15 September 2020 BAL made a compulsory order, The Bristol Airport Limited (Land at A38 and Downside Road) Compulsory Purchase Order 2020. BAL has submitted Proofs of Evidence in respect of the Order from Mr Church<sup>235</sup> and Mr Witchalls<sup>236</sup> and BAL's planning evidence is set out in Appendix C of Mr Melling's Proof of Evidence<sup>237</sup>.

#### Car Parking Demand

276. A Parking Demand Study ('PDS')<sup>238</sup> was prepared as part of the planning application. The methodology for forecasting on-site parking demand at Bristol Airport was considered acceptable by NSC Officers at the time of submission. The PDS was subsequently updated by a PDS Update ('PDSU')<sup>239</sup> in November 2020 in order to take into account the passenger forecasts produced by York Aviation. The methodology remained unchanged save for the use of updated data, which included forecasting, 2019 CAA Passenger Survey and two additional years of car park barrier data.

277. The key outputs of the updated study were as follows:

- a. By 10 mppa in 2024, 19,100 spaces would be required; and
- b. By 12 mppa in 2030, 22,200 spaces would be required.

278. The assessment has indicated that the existing car parking capacity at the airport would be insufficient to meet forecast demand. To meet the additional demand, the assessment concluded that the following four elements are required, (i) the year round use of the existing seasonal car park, (ii) the extension of the Silver Zone car park to provide 2,700 additional spaces, (iii) the delivery of MSCP2 (as consented) and (iv) the construction of an additional MSCP, MSCP3.

279. The increase of on-site parking provision has a number of advantages, in particular, reducing off-site parking impacts, reducing demand for taxi and drop-off trips and allowing a 'monitor and manage' approach to the provision of car parking. The 'monitor and manage' approach ensures that control mechanisms are in place to demonstrate that any additional car parking is provided as a managed response to overall passenger requirements, whilst ensuring that it aligns with targets to increase the public transport modal share (to be included in the draft

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<sup>235</sup> BAL/9/2

<sup>236</sup> BAL/4/4

<sup>237</sup> BAL/7/2

<sup>238</sup> CD2.11

<sup>239</sup> CD2.23

section 106 agreement) and is consistent with the principle of encouraging movement through the transport hierarchy.

280. The PDS analysis established that there was a need to provide a mix of low cost parking in addition to premium product parking, based on demographic data and research. Importantly, it also found that increasing low cost, surface level car parking would be more effective at tackling the problem of unauthorised off-airport parking.<sup>240</sup>
281. The view expressed in the Officers' Report<sup>241</sup> was that the methodology used in the PDS was robust. The Report concluded that the proposed level of car parking at the airport was the minimum required to meet the need arising from the proposed increase in passenger numbers after the level of public transport use has increased. Subject to the agreed conditions and mitigations, the proposal was considered acceptable. In the context of the assessment of the impact on the Green Belt, it was further accepted that additional passenger car parking was essential to meet the requirements of the proposed increase in passenger numbers.

#### Challenges

282. The points of challenge raised by NSC and the Rule 6 parties are identified and responded to in detail in section 9 of the Proof of Evidence of Mr Witchalls and his Rebuttal Proof<sup>242</sup>, which divides the points raised into themes. As noted above, one of the main points now raised by NSC is the design of the A38 highway improvements, despite this being previously agreed with NSC Officers. The Rebuttal Proof of Mr Witchalls responds in detail to these points.<sup>243</sup>
283. A summary of the other principal points of challenge is as follows:
- a. The assessment in the TA and TAA suffer from a number of deficiencies resulting in an incomplete and inaccurate understanding of the effects of the proposed development;
  - b. The public transport targets are not ambitious enough and/or the public transport provision is inadequate;
  - c. There are uncertainties in highway modelling due to COVID-19;
  - d. The PDS and PDSU suffer from a number of deficiencies, including the failure to consider the latest CAA sustainable transport mode share data; and

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<sup>240</sup> Proof of Evidence of Mr Witchalls, para 7.1.10 (BAL/4/2).

<sup>241</sup> CD4.11

<sup>242</sup> BAL/4/2

<sup>243</sup> Section 2.

- e. The need to extend the Silver Zone car park could be overcome by a pricing strategy that offered MSCP parking at the same cost as surface level car parking.
284. Whilst it is surprising that NSC now raises technical concerns regarding the TA, TAA, PDS and PDSU in light of the process by which the methodologies for those assessments were agreed, the technical points raised are addressed by Mr Witchalls in detail in his Rebuttal Proof<sup>244</sup> at section 2.2.
285. Furthermore, Highways England has made it clear that it anticipates that it “*will enter into a Statement of Common Ground with the appellant which will confirm that, for Highways England and Bristol Airport Limited, we are satisfied there are no outstanding matters to be resolved on the basis that both parties agree the improvement works at M5 junction 22 are necessary to make the proposed development acceptable in highways and transport terms.*”<sup>245</sup>
286. The public transport mode share target to be adopted is an ambitious but achievable one when compared to other regional airports<sup>246</sup>. Indeed, whilst other parties criticise the public transport provision at Bristol Airport, it actually has the highest public transport main mode share of any of the principal regional airports considered in the 2019 CAA survey data<sup>247</sup>.
287. The output of the highway modelling has been considered against the slower and faster growth forecasts. This analysis indicates that the speed of growth does not materially affect the results of the TA and TAA.
288. As set out in the legal advice contained in Appendix B to the Rebuttal Proof of Mr Melling, the suggestion that BAL prices the MSCP provision in line with the lower cost surface level parking has the potential to be deemed anti-competitive behaviour. This would represent a real risk that BAL is not prepared to run.

#### Summary of BAL’s case

289. With regards BAL’s case, the following points should be noted at this stage:
- a. The methodologies used in the TA and TAA were the result of a long process of negotiation and discussion with NSC, Highways England and the surrounding local highways authorities. NSC Officers and Highways England were satisfied with the

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<sup>244</sup> BAL/4/5

<sup>245</sup> CD7.17

<sup>246</sup> As noted above, the NPPF provides that regard should be had to the difference between urban and rural locations in terms of opportunities for providing sustainable modes of transport (see para 103).

<sup>247</sup> Proof of Evidence of Mr Witchalls, Table 6.3 – 2019 CAA survey mode share data (Main Mode) (BAL/4/2).

approach adopted and the results produced by that analysis. Any criticisms now levelled at the approach should be viewed in this context;

- b. The results of these assessments indicate that, even on a worse-case scenario, the impact of the proposed development on the highways network would, with mitigation, not be significant. The proposed junction improvements will provide a significant reduction in queuing and delays at the A38/West Lane and Downside Road junction compared to what is currently consented, which does not propose further improvements;
- c. The PDS, which forms the basis of the car parking proposals, was considered by NSC Officers to be robust. It has been validated against the TA and TAA, which represent a reasonable 'worst case scenario' for highways impact. The need for a total of 22,200 parking spaces, assuming a 2.5% increase in public transport use, is the minimum required to meet the demand associated with 12 mppa, as well as helping to prevent unauthorised parking and minimise drop-off;
- d. The need for, and advantages brought by, providing additional low cost parking are strongly supportive of the strategy adopted by BAL. The 'monitor and manage' approach will ensure that additional parking does not undermine the public transport mode share targets and the objective of minimising drop-off;
- e. BAL has already committed significant resources to delivering public transport benefits. The proposed development will enhance these further, providing a comprehensive package of sustainable transport measures;
- f. Despite the design of the A38 improvement works being agreed with NSC Officers and not featuring in the reason for refusal, Mr Witchalls has demonstrated that the technical concerns regarding its deliverability are unfounded.

### **Green Belt**

290. The area surrounding Bristol Airport comprises the Bath-Bristol Green Belt. The development plan defines an inset that excludes land on the northern side of the airfield from the Green Belt. Land to the south of the existing terminal building, including, *inter alia*, the runway and the existing seasonal Silver Zone long-stay car park are within the Green Belt<sup>248</sup>. The pressing need to deliver additional car parking to facilitate the expansion of the airport to a throughput of 10

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<sup>248</sup> See Appendix A to the Proof of Evidence of Mr Melling, Figure 1.1 (BAL/7/2).



mppa was considered by NSC to constitute 'very special circumstances' outweighing the limited harm to the Green Belt.<sup>249</sup>

291. Reason for refusal 4 concerns (i) the proposed year-round use of the existing seasonal Silver Zone car park and (ii) the further extension of the car park proposed. The reason for refusal states that such development constitutes inappropriate development for which no very special circumstances have been demonstrated that are capable of outweighing the harm to the Green Belt and any other harm, including the encroachment of the development into the countryside and loss of openness. Policy DM12 of the DMP and the NPPF are cited.
292. At CMC1, the Inspectors identified the proposed development's impact on the Green Belt and compliance with Green Belt policy as issue (b).

#### Development in the Green Belt

293. There are three aspects of the proposed development that would be located within the Green Belt, namely (i) the changes to the Silver Zone seasonal use restriction, associated permanent infrastructure and the proposed extension of the car park, (ii) the improvements to the A38 and its junction with Downside Road, and (iii) a limited number of elements of the new airside infrastructure, namely, the proposed taxiway widening and fillets and eastern taxiway link. The extent to which these aspects constitute inappropriate development in the Green Belt will be briefly addressed shortly.

#### Green Belt Policy Context

294. Chapter 13 of the NPPF<sup>250</sup> contains Green Belt policy. Great importance is attached to Green Belts, the fundamental aim of which is to prevent urban sprawl and keep land permanently open<sup>251</sup>. The purposes of Green Belt are identified in paragraphs 134 of the NPPF as follows:
- a. To check unrestricted sprawl of large built-up areas;
  - b. To prevent neighbouring towns merging into one another;
  - c. To assist in safeguarding the countryside from encroachment;
  - d. To preserve the setting and special character of historic towns; and

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<sup>249</sup> Officer's Report, application 09/P/1020/OT2 (CD4.1a).

<sup>250</sup> CD5.8

<sup>251</sup> Paragraph 133 of the NPPF (CD5.8).

- e. To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
295. Paragraphs 145 and 146 of the NPPF provide for the types of development that are considered to constitute ‘appropriate development’ in the Green Belt. Development that is ‘inappropriate’ in the Green Belt is by definition harmful, and should not be approved except in ‘very special circumstances’.<sup>252</sup>
296. Paragraph 144, which is reflected in policy DM12 of the DMP<sup>253</sup>, provides 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.”*
297. Policy CS26 of the NSC Core Strategy<sup>254</sup> concerns the approach to the Green Belt, including in respect of Bristol Airport specifically. It notes that the Replacement Local Plan created an inset in the Green Belt to accommodate *“the medium term expansion requirements of Bristol Airport”*, and that further Green Belt amendment would be premature in advance of *“exceptional circumstances being demonstrated through evidence regarding future expansion and its land use implications”*.
298. The supporting text to policy DM50, which relates to development within the Green Belt inset, reiterates that outside the inset, Green Belt policy applies, such that it is for a developer to demonstrate ‘very special circumstances’ that outweigh the harm to the Green Belt and any other harm.
299. Policy DM30 concerns provisions for off-airport car parking and is therefore not of direct relevance to this application. However, as part of the policy justification it states that the policy aim includes protecting the Green Belt from off-airport car parking. This aim is mainly achieved through the Green Belt status itself, which precludes inappropriate development including car parking.

#### Inappropriate Development in the Green Belt

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<sup>252</sup> Paragraph 143.

<sup>253</sup> CD5.4

<sup>254</sup> CD5.6

300. It is common ground with NSC that the proposed year-round use of the existing seasonal Silver Zone car park and the car park extension constitute inappropriate development in the Green Belt. This was the view expressed in the Officers' Report,<sup>255</sup> and is reflected in reason for refusal 4.
301. With regards to the other aspects of the proposed development that are situated within the Green Belt, the position of BAL, NSC Officers and (it would appear) the Planning Committee are similarly aligned; they do not constitute inappropriate development in the Green Belt<sup>256</sup>. Indeed, Mr Gurtler, NSC's planning witness, acknowledges that the reason for refusal is limited in scope to the impact of the proposed car parking development.<sup>257</sup>
302. Despite this, however, Mr Gurtler proceeds to "*record his view*" on other aspects of the proposal, namely the elements of airside infrastructure and the A38 improvements. Both of these elements, he argues, are inappropriate development in the Green Belt by virtue of their impact on openness.<sup>258</sup> This is a clear departure from the position of both NSC Officers and the Committee that determined the application.
303. The widening of the objection relating to Green Belt was not foreshadowed in NSC's Statement of Case, which was properly limited in scope to the impact of the proposed car parking development. The first indication that NSC sought to broaden the scope of reason for refusal 4 was in the Statement of Common Ground (Part 2)<sup>259</sup>.
304. The Proof of Evidence of Mr Melling<sup>260</sup> provides a detailed explanation as to why the airside infrastructure and A38 improvements do not constitute inappropriate development in the Green Belt. Both aspects are forms of development identified in paragraph 146 of the NPPF as 'not inappropriate' development, provided that the openness of the Green Belt is preserved and the development does not conflict with the purposes of including land within it. In summary,
- a. The airside infrastructure constitutes 'engineering development' comprising the laying of hardstanding only. This will have no impact on the openness of the Green Belt; and

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<sup>255</sup> Page 106.

<sup>256</sup> Officer's Report (CD4.11), page 106. The absence of a reference to the other aspects of the development as constituting inappropriate development in the Green Belt indicates that the Committee adopted NSC Officers' assessment of this matter in the determination of the appeal.

<sup>257</sup> Proof of Evidence of Mr Gurtler, para 43 (NSC/W7/1).

<sup>258</sup> Para 46 and para 49 (NSC/W7/1).

<sup>259</sup> CD12.2

<sup>260</sup> BAL/7/2.

- b. The proposed improvements to the A38 constitute local transport infrastructure, which is required to mitigate the traffic effects associated with the increase in throughput and can only be located in the Green Belt. In its location alongside the existing highway, the proposed works will preserve the openness of the Green Belt and will not conflict with Green Belt purposes.

305. Section 4.2 of the Rebuttal Proof of Mr Melling<sup>261</sup> carries out a detailed assessment of these aspects of the proposed development in terms of their impact on openness and consistency with Green Belt purposes.

#### Harm to Green Belt Purposes

306. Appendix A to Mr Melling's Proof of Evidence<sup>262</sup> contains a Green Belt Assessment of the land to the south of the airport, where the Silver Zone car park is situated.

307. With regards the proposed year-round use of the existing seasonal car park, this aspect of the development relates to an existing facility, the principle of which has already been established and accepted in this location. The analysis in Appendix A to Mr Melling's Proof of Evidence indicates that the contribution made by the land to Green Belt purposes is limited. Close range views of the car park are screened by the existing, maturing landscaping bund. Longer range views of the car park are seen in the context of the existing development at the airport. Against this background, the impact on the Green Belt arising from the year-round use of the car park, and the associated development including lighting and CCTV will be limited.

308. With regards to the proposed extension of the Silver Zone car park, it will be situated adjacent to the existing seasonal car park and would consist of development of a similar nature. Mitigation measures have been proposed such as a landscape perimeter bund to screen close range views and the adoption of a lighting strategy to prevent light spillage. Mr Melling's Green Belt assessment indicates that this land makes a contribution to the Green Belt<sup>263</sup>. The car park extension would result in 'moderate to limited' harm to the Green Belt in the absence of mitigation, which is reduced to 'limited' harm through effective landscaping.

309. Overall, Mr Melling's evidence indicates that the overall harm to the Green Belt as a result of the proposed development will be limited.

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<sup>261</sup> BAL/7/3.

<sup>262</sup> BAL/7/2.

<sup>263</sup> BAL/7/2, Appendix A.

### Very Special Circumstances

310. The NPPF and the development plan requires that ‘very special circumstances’ are demonstrated to justify the development of the components of the proposed development that constitute inappropriate development.
311. The Proof of Evidence of Mr Melling identifies three very special circumstances, as follows:
- a. The need for additional car parking in the Green Belt to facilitate the growth in passenger throughput. This is based on a robust assessment of parking demand contained in the PDS<sup>264</sup> and PDSU<sup>265</sup>, which highlights a particular need for low cost car parking. The additional demand cannot be accommodated within the Green Belt inset, in which an additional MSCP is already proposed. In order to make better use of development already within the Green Belt, removal of the seasonal restriction on the Silver Zone car park allows for greater operational efficiency. Moreover, the ongoing problem of unauthorised off-site car parking, which causes serious harm to the Green Belt as well as adverse impacts on the amenity of local communities and the environment, will only be exacerbated should insufficient car parking be provided at the airport;
  - b. There are no further suitable and available sites for car parking outside of the Green Belt. The Parking Strategy<sup>266</sup> produced on behalf of BAL assessed 25 off-site potential locations to accommodate the identified parking demand. None of the sites assessed were suitable to meet the additional demand. This was acknowledged by NSC Officers.<sup>267</sup>
  - c. The need for, and benefits of, the growth of Bristol Airport. The provision of additional parking is integral to the proposals to expand capacity at the airport. It forms part of the strategy that makes best use of the existing airport site, which is consistent with national aviation policy.
312. These very special circumstances are capable of outweighing the limited harm to the Green Belt resulting from the proposed extension to the Silver Zone car park and year round use of the seasonal car park.

### Challenges

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<sup>264</sup> CD2.11

<sup>265</sup> CD2.23

<sup>266</sup> CD2.12

<sup>267</sup> Officer’s Report (CD4.11), page 111.

313. The main challenges raised by NSC and other parties to the appeal are identified and responded to in section 5.5 of the Proof of Evidence of Mr Melling and his Rebuttal Proof<sup>268</sup>. These can be summarised as follows:

- a. The harm to the Green Belt has been “*underplayed*”;
- b. The need for additional car parking, including low cost car parking, has not been demonstrated;
- c. The additional parking will have an adverse impact on the public transport mode share;
- d. That BAL has not demonstrated why additional car parking in the Green Belt should be delivered in advance of car parking within the inset; and
- e. That BAL has not demonstrated that car parking in the Green Belt inset has been maximised, and/or a further MSCP should be delivered in the Green Belt inset.

314. Insofar as these have not been addressed already in this opening, a summary of BAL’s response to these points of challenge is as follows:

- a. The first and second points are contrary to the detailed assessment presented in the Green Belt Assessment and PDS/PDSU respectively;
- b. With regard to the public transport mode share, BAL has adopted an ambitious public transport mode share target, which will be supported by further significant investment in public transport provision. The ‘monitor and manage’ approach discussed above will ensure that car parking is delivered at a rate that does not undermine this objective; and
- c. With regards to the remaining two points of challenge, the PDS indicates that the car parking demand is for a mix of standards of provision. This includes low cost car parking, which can only be delivered through surface level car parking. One reason for this is the competition law issues associated with this proposal as we have already explained.<sup>269</sup> The delivery of an additional MSCP (beyond that proposed as part of this application) would not provide low cost parking, nor would it help address the issue of unauthorised off-airport car parking and the negative effects associated with it. Moreover, the delivery of

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<sup>268</sup> BAL/7/2 and BAL/7/3.

<sup>269</sup> Appendix B to the Rebuttal Proof of Mr Melling (BAL/7/3).

a fourth MSCP/decked parking to the north of the airport would result in significant landscape and visual impacts<sup>270</sup>.

#### Summary of BAL's Case

315. The only aspect of the proposed development that is properly identified as inappropriate development in the Green Belt is the proposed car parking elements. Mr Gurtler alone disagrees with this position.
316. The proposed development maximises further development of the airport in the Green Belt inset. This includes a commitment to deliver MSCP2 permitted under the 2011 Permission and a further MSCP3. A need has been identified for additional surface level car parking in the Green Belt, which cannot be met elsewhere. In particular, the delivery of increased car parking provision is integral to the growth of the airport, allowing it to make best use of its existing infrastructure in line with national policy. The considerable socio-economic benefits that the proposed development brings are more than capable of outweighing the limited harm to the Green Belt when considered within the framework of local and national policy.

#### **Landscape**

317. The impact of the proposed development on landscape character and visual amenity was subject to detailed consideration by NSC Officers. Further information was provided by BAL in response to regulation 25 requests from NSC<sup>271</sup>, which supplemented that contained in the Landscape and Visual Impact Assessment ('LVIA'). The landscape impact of the proposed development was not identified as an objection by NSC Officers either in advance of submission of the application, or in the Officers' Report<sup>272</sup>. The Officers' Report considered this issue in detail under 'Issue 13'<sup>273</sup> and concluded that the proposed development was considered acceptable in terms of its impact on landscape character and visual amenity. Committee Members agreed with this recommendation, which is why this issue does not feature as a reason for refusal.
318. The LVIA<sup>274</sup> submitted on behalf of BAL considered 47 locations, 22 of which were selected for more detailed visual impact assessments. This included six locations in the Mendip Hills AONB.

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<sup>270</sup> Appendix A to the Rebuttal Proof of Mr Melling (BAL/7/3).

<sup>271</sup> CD3.4.7 and CD3.4.8

<sup>272</sup> CD4.11

<sup>273</sup> Pages 110 to 115.

<sup>274</sup> CD2.5.21

This assessment was considered by NSC Officers to provide an “*extensive representation of the projected visual impact*”<sup>275</sup>.

319. The conclusions reached by the assessment were that at 40 locations, people would experience a ‘minor’, ‘negligible’ or ‘no’ impact, and at seven visual receptor groups, the impact of the proposed development would be ‘moderate’. The moderate effects arose because of an incremental increase in the quantity of development.
320. The only party to produce substantive evidence on the impact of the proposed development on landscape and visual impact is XR Elders. This evidence criticises the assessment in the LVIA and argues that the impact of the proposed development on the AONB and its setting is significant and adverse.
321. BAL’s response to this evidence is provided in the Rebuttal Landscape Proof of Evidence of Mr Furber<sup>276</sup>, who responds to the landscape evidence of Ms Tudor for XR Elders. This evidence demonstrates Ms Tudor’s assessment is based on a methodology that does not follow best practice guidance and that the assessment conclusions reached in respect of the impact of the proposed development on the AONB and its setting are unsubstantiated. Mr Melling’s Rebuttal Proof responds to the policy implications of Ms Tudor’s evidence.<sup>277</sup>

#### **Planning Policy and Planning Balance**

322. At the time of the determination of BAL’s application, NSC Officers were satisfied that the proposed development was in compliance with the development plan when considered as a whole. The reasons for refusal subsequently identified six development plan policies that were said to be breached, namely policies CS1, CS3, CS10, CS23 and CS26 of the Core Strategy<sup>278</sup> and policy DM12 of the DMP<sup>279</sup>. Compliance with these policies is addressed in detail in the evidence of Mr Melling.
323. The acceptability of the proposed development with regard to adopted and emerging local and national policy was identified by the Inspectors as CMC1 issue (a).

#### **Legal and Policy Framework**

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<sup>275</sup> CD4.11, p.115.

<sup>276</sup> BAL/9/1/2

<sup>277</sup> Para 5.2.4 to 5.2.8 BAL/7/3.

<sup>278</sup> CD5.6

<sup>279</sup> CD5.4



324. In accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal must be determined in accordance with the development plan unless material considerations indicate otherwise.
325. BAL and NSC have agreed a list of development plan policies that are relevant to the determination of the appeal.<sup>280</sup> The development plan comprises the North Somerset Core Strategy (adopted 10 January 2017), the Sites and Policies Plan Part 1: Development Management Policies (adopted 19 July 2016) and the Sites and Policies Plan Part 2: Site Allocations Plan (adopted 10 April 2018). It is agreed that full weight can be given to the development plan.<sup>281</sup>

#### Planning Balance

326. Mr Melling's assessment of the planning balance is set out at section 8 of his Proof of Evidence<sup>282</sup>. For the reasons explained in Mr Melling's evidence, the proposed development accords with local development plan policy. In particular:
- a. Whilst other parties to the inquiry raise a multitude of points of dispute regarding the socio-economic benefits of the proposed development, even on the most pessimistic of assumptions, the benefits are substantial. They include the generation of £310 million GVA and the creation of 4,000 employment opportunities for local areas including deprived communities. More broadly, the proposed development will deliver the benefits of increased connectivity, prosperity and quality of life benefits. These are the very objectives of both the Government and NSC in seeking to 'level up' regional economic growth, enhance international trade following the UK's departure from the EU, and support economic recovery from the COVID-19 pandemic. The proposed development will be accompanied by a significant package of initiatives to engage the local community and labour market, delivering employment opportunities and a means of improving skills;
  - b. As with all airport expansion projects, the socio-economic benefits of the proposed development must be weighed against the environmental impacts. Bristol Airport's location in a rural area with low population density means that the environmental impacts associated with the proposed development are modest when set alongside a very significant package of mitigation measures. Policy requires that environmental

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<sup>280</sup> Statement of Common Ground (Part 1), para 15 (CD12.1).

<sup>281</sup> Statement of Common Ground (Part 1), para 14 (CD12.1).

<sup>282</sup> BAL/7/2.

impacts are mitigated to an acceptable level. The detailed assessment in the ES and ESA demonstrate that all environmental impacts have been minimised and, where necessary, mitigated appropriately. As such, the environmental effects of the proposed development have been satisfactorily addressed, a conclusion with which NSC Officers, and their expert advisers, had agreed;

- c. BAL's evidence has demonstrated that the environmental effects that do arise from the development are 'not significant' in EIA terms. Indeed, certain receptors will experience a benefit in respect of noise levels experienced. NSC's position that the impacts on air quality and noise would cause "significant adverse impacts" is simply not supported by the detailed assessment carried out by BAL. Indeed, Mr Pyper's evidence, which draws on the analysis in the HIA, indicates that the proposed development will actually result in a beneficial impact in terms of population health, as a result of the substantial socio-economic benefits that it will provide;
- d. With regards to the carbon emissions from the proposed development and the associated impact on the ability of the UK Government to achieve its net zero target, BAL's evidence demonstrates that the concerns of NSC and other parties to the appeal are unfounded. Indeed, much of the evidence produced simply seeks to mount an attack on Government policy or speculate as to what future Government policy may be. Indeed, many of the points raised, in particular relating to MBU, have been shown to be groundless by the recent publication of the Jet Zero Consultation<sup>283, 284</sup>. Government policy is clear; national policy provides in principle support for airports making best use of their existing infrastructure subject to the balancing of environmental and economic impacts. The proposed development seeks to do just this. The means by which the Government meets its legal obligations under the CCA are matters for Government. The UK ETS, the setting of carbon budgets and the participation in CORSIA provide such means. It is well established that the effectiveness or sufficiency of these measures are not matters for local development control decisions;
- e. Insofar as it is possible to do so, BAL is already implementing measures to minimise the carbon emissions from the airport, this includes the objective in its Carbon Roadmap to be net zero. Through this approach, Bristol Airport has sought to be an exemplar airport

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<sup>283</sup> CD[]

<sup>284</sup> And in particular the restatement of MBU as up to date policy that provides a basis for decision making (fn 39).

for sustainable aviation growth across the industry and its draft CCCAP will formalise that commitment in a planning condition;

- f. The proposed expansion of the surface level car parking capacity is integral to the delivery of growth at the airport. The nature of the proposed development in the Green Belt results in only limited harm to the Green Belt, which is capable of being outweighed by the very special circumstances identified in the evidence of Mr Melling;
- g. The TAA has demonstrated that even on a reasonable worst case basis, the additional traffic generated for the proposed development will not prejudice highway safety, nor result in severe cumulative impacts on traffic congestion. On the contrary, the proposed A38 junction improvements will deliver significant capacity benefits, enhancing safety. The ambitious target of a 2.5% increase in public transport mode share will be supported by a comprehensive package of deliverable, sustainable transport measures.

327. As explained by Mr Melling, the proposed development is consistent with policies CS1 (Addressing climate change and carbon reduction), CS3 (Environmental Impacts and flood risk management), CS10 (Transportation and Movement), CS11 (Parking), CS23 (Bristol Airport), CS26 (Supporting health living and the provision of health care facilities) DMP policy DM12 (Development within the Green Belt) and DM50 (Bristol Airport). As such, the proposal accords with the development plan considered as a whole.

328. There are no material considerations that indicate that the appeal should be determined otherwise than in accordance with the development plan.<sup>285</sup> The proposed development is consistent with national policy, including the NPPF and the presumption in favour of sustainable development. The benefits that the proposed development will deliver, whilst ensuring that environmental impacts are satisfactorily addressed, is consistent with and supportive of national aviation policy contained in the APF and MBU. National aviation policy is clear in its support for airports such as Bristol making best use of their existing airport infrastructure, which the proposed development enables BAL to do. The growth in capacity brought by the proposed development will deliver precisely the type of socio-economic benefits for the surrounding areas and the South West region that both NSC and the Government economic policy support the delivery of. The demand for growth at Bristol Airport exists, despite the impact of the

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<sup>285</sup> Proof of Evidence of Mr Melling, section 8.3 (BAL/7/2).

COVID-19 pandemic. The proposed development meets this demand, thereby retaining passengers and the other associated benefits within the region.

#### **Conditions and Section 106 Agreement**

329. At the time of the determination of the application, a list of draft planning conditions and a draft Heads of Terms for a section 106 agreement were agreed in principle with NSC Officers as part of the Officers' recommendation for approval of the application.<sup>286</sup> These documents were appended to the Officers' Report<sup>287</sup>.
330. Until substantive proposed amendments to the list of conditions were proposed by NSC in May 2021, BAL did not understand there to be outstanding matters of dispute. Since that date the parties have entered into negotiations in an attempt to narrow the extent of dispute surrounding the proposed conditions and the draft section 106 agreement. Some matters in relation to these documents are agreed, but some are not. It is disappointing that there remains substantial points of dispute outstanding. In particular, the Proofs of Evidence submitted on behalf of NSC seek substantially different conditions and obligations than those previously agreed with Officers.

#### **The Bristol Airport Limited (Land at A38 and Downside Road) Compulsory Purchase Order 2020**

331. As explained above, the highway improvements that form part of the proposed development require the compulsory acquisition of 22 plots of land amounting to approximately 9,293 square metres for the construction and operation of the works. The Bristol Airport Limited (Land at A38 and Downside Road) Compulsory Purchase Order 2020 ('the CPO') was made by BAL on 15 September 2020 pursuant to powers conferred by the Airports Act 1986.
332. The inquiry into the CPO has also opened today and BAL's evidence for the planning inquiry is also, therefore, evidence in the CPO inquiry; although the specific CPO issues have been programmed towards the end of the inquiries. In addition, BAL has submitted additional evidence for the CPO inquiry, being: written Proofs of Evidence of two witnesses, Mr Witchalls on the need for the A38 improvement scheme by reference to the technical highways assessments undertaken<sup>288</sup>, and Mr Church on matters relating to the compulsory purchase order, including BAL's attempts to acquire the interests required by agreement and the extent

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<sup>286</sup> Statement of Common Ground, paras 27 and 28 (CD12.1).

<sup>287</sup> CD4.11

<sup>288</sup> BAL/4/4

to which these have been successful<sup>289</sup>. Also it should be noted that the planning issues for the CPO are specifically covered in Mr Melling's Proof of Evidence (at Appendix C)<sup>290</sup>.

### **Conclusion**

333. The evidence presented sets out BAL's case by reference to the issues identified by the Inspectors at CMC1, the reasons for refusal and other issues raised by parties to the appeal, where appropriate.
334. For the reasons summarised above, and set out in detail in the written Proofs of Evidence, it will be BAL's case that the proposed development provides an opportunity to deliver increased connectivity, prosperity, and economic growth to North Somerset, the wider West of England sub-region and the South West. The proposed development is in accordance with the development plan taken as a whole and there are no material considerations that indicate that planning permission should be refused. For these reasons, in due course we will invite the Inspectors to allow the appeal and grant planning permission.

**Michael Humphries QC**

**Daisy Noble**

20 July 2021

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<sup>289</sup> BAL/9/2

<sup>290</sup> BAL/7/2