

Opening Statement on Behalf of Parish Councils Airport Association

This opening statement on behalf of the PCAA seeks to address the central pillars of the opposition to the proposed development within this appeal. As set out in the PCAA Statement of Case, PCAA strongly believes that this appeal is contrary to local policy, which is addressed primarily in North Somerset Council's submissions.

The PCAA does not propose to replicate all of those objections that it supports, but proposes to raise separate issues and to provide evidence to support the widespread local opposition to this Appeal.

Location and access

Bristol Airport is already one of the largest airports in the UK. It is the largest in the Southwest and has been constructed and operated since the 1950s.

The development of the airport has been ad hoc. It has never formed part of an integrated transport strategy. That is an extraordinary lack of foresight given the millions of people per year already using the location.

The result, in its present state, is an airport that is possibly the poorest served from the perspective of public transport in the country. It is miles away from the city it claims its name from and accessed from Bristol without the benefit of any mass transit system, along roads never built for such traffic. That is the best route of access.

For those travelling from other directions, there is no properly constructed route from the M5 motorway, and the situation from the east is even worse, there being no major

roads to get people even closer. All of these routes take the traveller through winding country roads and small villages.

That the airport has been permitted to develop to its existing size, let alone expand even further, might be properly described as a complete failure of planning and integrated transport. The problems, already created and existing today, are something that the current appeal will only exacerbate. The appeal does not advance any solutions to the issues bedevilling the operation of the site. The appellant has not, for example, prepared a surface access strategy that addresses the need for a strategic access infrastructure. North Somerset Council quite properly rejected the application.

Environmental Impact Assessment

The EIA Addendum, and the EIA as a whole, fails to comply with Transport Analysis Guidance. This policy provides a comprehensive framework for the impact appraisal of airport planning proposals, amounting to a material consideration in the Appeal. It cannot be ignored at the appellant's convenience. The socio-economic costs and benefits, noise impacts and carbon emissions associated with the Planning Application must be analysed and monetised in full compliance with the criteria laid down in TAG A5.2 and its supporting policies.

Without this there is no clear understanding of the negative costing of the airport. In the PCAA Statement of Case there was a suggestion that further environmental information under section 25 of the Town and Country Planning (Environmental Impact Assessment) (England) Regulations 2017, be provided to enable the inspectors to make an informed decision.

The Appellant has rejected this 'best practice' approach on the basis that the Appeal does not of itself require significant infrastructure expenditure and therefore does not

fall within the TAG requirements. That approach, PCAA says, simply underlines the lack of merit in the original planning application. It is seeking to deal with issues that ought to, because of the scale of expanded operations at the site that are now envisaged, be being addressed by a properly structured approach that does assess these larger and wider issues. It is not an answer, say the people that are going to be directly affected every day of their lives by the failure to address this as part of the Appeal and planning application, to simply ignore the elephant in the room.

Inevitably, should the Appeal be permitted, there will be pressure to address the infrastructure deficit created by the additional volumes of traffic alone. It is not a responsible approach to ignore that impact. the TAG analysis should properly have been done to enable a best practice, fully informed decision to be made.

Noise, health and amenity

The problems that such development has already created, even without regard to modern scientific understanding of bigger environmental issues, has already profoundly affected people living close to it for many years.

Those representing the people living around the airport, and underneath the flightpaths, properly take objection to the proposed expansion.

Increased number of flights will increase the noise levels that people are exposed to.

Increasing the number of night flights – to exceed those even permitted at Heathrow airport in number – will result in unacceptable levels of intrusion on people's lives that will not be properly addressed by the mitigation proposed.

PCAA challenge the noise methodology used. It further challenges the future noise predictions make the unproven assumption that future fleet changes will lead to a reduction in noise due to technology advancement. This is not based on any fact, knowledge or assurance, and there is additional uncertainty because many airlines have delayed or cancelled future orders for new, potentially less noisy, aircraft because of the pandemic.

Aircraft noise is linked to increased cardiovascular harm, impairment of endothelial function and increase in blood pressure in people at risk of coronary artery disease. It is linked to adverse effects on children's education.

There is a growing understanding of the health impacts of such operations, from the harmful effects of nitrogen dioxide and fine particulate matter – linked closely to respiratory disease, strokes, cancer and heart attacks.

Recent research has established a link between PM 2.5 and Parkinson's disease and diabetes.

In addition to direct harm to people's health, the inquiry is going to hear about the daily impact on people's lives that live in areas surrounding the airport that have been turned into rat-runs and unofficial car parks. If the appellant was advancing solutions to these issues as part of the appeal, there could be an element of discussion about the proposal, but what is advanced is not only more of the same, increasing by volume, but also increasing the times of impact to even longer periods through the 24 hour day. Not only, for example, additional night flights – but additional night use of the rat-runs by people getting to and from their flights by road. These issues are, to practical effect, simply ignored by the Appellant.

Noise, health and amenity are all small words in a public inquiry, but significant to those people living with the consequences, day in and day out – and night in and night out.

Economic claims

The Appeal is accompanied by empty promises of job creation that local people have heard before, when the truth is that with the structure of holiday to business use – a huge imbalance in favour of the former that an expansion of the airport will do nothing to alter, and with the huge imbalance of holiday travellers leaving the UK as opposed to visiting that expansion will not resolve, it is not hard to see why there is a real scepticism about any economic benefit to the region from the proposal.

The reality is that Bristol is a ‘leisure’ airport. In 2019, approximately 64% of its passengers were international outbound tourists, 11% were international inbound tourists, 10% were domestic tourists, a mere 14% were business passengers. For every pound spent in the UK by foreign visitors flying to Bristol Airport, five pounds are spent by UK tourists flying to foreign holiday resorts. This gives rise to a tourist deficit which in 2019 amounted to £ 1.43 billion. Expansion, if there is a need for and an uptake of the capacity, will make that situation worse, not better.

There is no evidence that business use and any benefits of connectivity will be expanded in any significant way at all by these additional flights.

The original application, together with this Appeal, appears to have been made on the presumption that because there has historically been a sense that aviation growth will continue, that regardless of the issues arising locally and even without addressing the

issues, that permission ought to be granted. Those assumptions in the world that we live today, for so many reasons, no longer withstand scrutiny.

Appropriate Assessment

In relation to the SAC – the PCAA statement of case (para 5 b), identified that the wrong approach being adopted in relation to the mitigation of the effects on the SAC in relation to the harm that would be caused to the SAC.

As general legal principles the Habitats Directive does not of itself have any status under domestic law, however the Habitats Directive (Council Directive 92/43/EEC) are transposed into English and Welsh law by the Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations'). The Habitats Regulations continue to have effect by virtue of section 2 of the Withdrawal Act.

Further, decisions of the ECJ made prior to 31 December 2020 continue to have effect in the UK by virtue of section 3 of the Withdrawal Act. At present, those decisions may only be departed from by the Supreme Court and Court of Appeal and not any lower tribunal. Decisions of the ECJ made after 31 December 2020 are to be treated as 'persuasive authority' (i.e. not binding but carrying weight) (see s6 Withdrawal Act).

CD3.04.13 contains the Bristol Airport Biodiversity report (prepared by Johns Associates) that in turn sets out the SAC conservation objectives (paras 1.1.4 and 1.1.5):

"The conservation objectives for the SAC state:

With regard to the SAC and the natural habitats and/or species for which the site has been designated, and subject to natural change, ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring:

The extent and distribution of qualifying natural habitats and habitats of qualifying species;
The structure and function (including typical species) of qualifying natural habitats;
The structure and function of the habitats of qualifying species;
The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely;
The populations of qualifying species; and,
The distribution of qualifying species within the site."

The conservation objectives for the site are set out at para B1 of CD 4.15. The designation includes protection for the greater and lesser horseshoe bat.

The report contains the acceptance that the development will result in the loss of 3.7ha of 'high-quality horseshoe bat foraging habitat associated with the Proposed Extension to the Silver Zone car park (phase 2), together with the loss of a small area (0.16ha) of woodland edge habitat at the A38 Highway Improvement Land' (para 1.1.2). It is accepted in the Appellant's 'Johns Associates' report that the maintenance of the SAC bat habitats 'applies equally to habitat used by horseshoe bat outside of the SAC boundary' (para 1.1.6)

In the Appellant's own report, the following is advanced (para 1.2.4) 'Where existing habitats or features of value to bats cannot be retained as part of the development proposals, the SPD requires the provision of replacement habitat. The surveys undertaken in accordance with the SPD are also required to inform the metric for calculating the replacement habitat to be provided. The SPD sets out the precise methodology for calculating an appropriate level of replacement habitat.' It continued (para 1.2.5) 'An Ecological Management Plan for the site must be provided setting out how the site will be managed for SAC bats in perpetuity.'

A Habitats Regulation screening assessment was carried out by North Somerset Council (CD 4.15) in September 2019. It concluded (end of C2 at printed page 17) that

the plan or project is likely to (or may have a significant effect) without mitigation on the lesser and greater horseshoe bat features of the site.

The matter was then taken forward to an Appropriate Assessment that included a more detailed study of the risk posed. It was considered that both the footprint of the proposed extended silver zone car park and the woodland by the A38 junction were of high value to horseshoe bats at a district level. It is obvious that should the project be permitted, that it would involve the destruction of the two identified high value areas.

Regulation 63 of the Conservation of Habitats and Species Regulations 2017 provides:

63(5) In the light of the conclusions of the assessment, and subject to regulation 64, the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be).

(6) In considering whether a plan or project will adversely affect the integrity of the site, the competent authority must have regard to the manner in which it is proposed to be carried out or to any conditions or restrictions subject to which it proposes that the consent, permission or other authorisation should be given.

NSC then, it is submitted in error, moved on to consider the provision of a 'mitigation strategy' (D3.1 of document). That 'mitigation strategy' included both issues that could (no objection is taken) be conditioned – such as the CEMP and conditioned retention of hedgerows etc, and also (at 9 and 10), and the purchase 'replacement habitat' through the purchase and enhancement of nearby woodland.

The error is, having determined that the likely significant effect could not be excluded as a result of the destruction of key habitat that supported the SAC species, that it follows that conditions could not address that concern. The very construction of the

car park destroys the SAC supporting habitat. It cannot be mitigated through conditions, and the only alternative is to provide compensation in the form of substitute habitat.

Such compensation should follow the procedure set out in Regulation 64 of the Conservation of Habitats and Species Regulations 2017 which provides:

- (1) If the competent authority is satisfied that, there being no alternative solutions, the plan or project must be carried out for imperative reasons of overriding public interest (which, subject to paragraph*
- (2), may be of a social or economic nature), it may agree to the plan or project notwithstanding a negative assessment of the implications for the European site or the European offshore marine site (as the case may be).*

This issue was considered in *T C Briels and Others v Minister van Infrastructuur en Milieu* C-521/12 where such replacement habitat was clearly determined to be ‘compensation’ within the meaning of Articles 6(3) and (4) of the Habitats Regulations as enacted in Regulation 64 of the Conservation of Habitats and Species Regulations 2017. At para 33 of *Briels* the use of mitigatory conditions circumvent the procedure provided for in Article 6(3) was ruled unlawful.

It follows that in permitting compensatory habitat measures without following the Regulation 64 procedure, NSC and the Appellant have made an error that the Inspectors as the Appropriate Authority should not repeat.

Should the Appeal be granted in respect of the Silver Zone car park, the Inspectors will need to be satisfied that every requirement of Regulation 64 is satisfied – for example that there are no alternative solutions (such as alternative parking or improved public transport), that there is adequate compensatory provision available,

and that there is an overriding public (as opposed to private commercial) interest for building on green belt SAC supporting land.

Climate Change

NSC declared a climate emergency passing an overarching resolution to take climate into account in all parts of its activities. NSC are not alone in that. Throughout the country – and the world those in positions of elected responsibility are doing the same. People are recognising that the crisis facing our planet needs to be addressed by action, not hollow words.

This period of time will be looked at with incredulity by people in the very near future. People will rightly question the decisions of people to carry on as they always have in the face of an overwhelming body of evidence that demonstrates that even 'business as usual' is not sustainable.

The damaging impacts of climate change, the warming climate, unstable weather patterns, ocean acidification and increased species extinction that we are already seeing are the result of what we are currently doing – the expansion of damaging activities for short term economic interests of a single business will rightly be treated with outraged disdain.

The actual harm being caused by the intensification of harmful activity in the face of all of the evidence has to be a central feature, and a determining feature where there is no overriding public interest, in determining the environmental pillar of the requirement for development to be sustainable.

Conclusions

The Application is not supported by a 'best practice' impact appraisal in accordance with TAG A5.2.

There is no economic need for the Proposed Development.

The improvements to the surface access infrastructure identified in the Application would be wholly inadequate to support the increase in road traffic associated with the Proposed Development.

The proposed expansion and year-round use of the Silver Zone car park would do further harm to the Green Belt and highly sensitive natural habitats.

The proposed expansion in passenger numbers would significantly increase the harmful exposure of local communities to night-time noise and aircraft as well as road traffic emissions.

The Proposed Development would further damage the residential amenity of the communities surrounding the airport.

The Proposed Development is incompatible with the stated Government policy on climate change, adding to CO₂ emissions rather than reducing them and is contrary to the environmental considerations of sustainable development.