

16 March 2020

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Dear Sirs

**Application Number: 18/P/5118/OUT - Outline Planning Application  
Site: Bristol Airport, North Side Road, Felton, Wrington**

We act for the applicant (**Bristol Airport Limited**) in connection with planning application reference 18/P/5118/OUT for the development of Bristol Airport to accommodate 12 million passengers per annum (**mppa**) (the **Application**). The grounds for refusal of the Application are proposed in the minutes of the North Somerset Council (the **Council**) Special Meeting of the Planning and Regulatory Committee (the **Committee**) held on 10 February 2020 (the **Committee Minutes**), and are reproduced in the Head of Planning's subsequent report to the Committee.

The Council will be aware of its statutory duty to ensure that any decision notice issued should state clearly and precisely the full reasons for the refusal of the Application, specifying all policies and proposals in the development plan which are relevant to the decision. The Council will also be aware that where the elected members' decision differs from that recommended by their officers, it is essential that their reasons for doing so are clear, precise and comprehensive. Government guidance is also clear that conditions should be imposed on a planning permission to avoid refusal where conditions can overcome a planning objection to a development proposal.

As currently proposed in the Committee Minutes, the reasons for refusal raise wholly artificial issues which are unsupported by the relevant policies cited or by any evidential basis on which to make such a decision, or raise issues which have been fully addressed by proposed conditions or planning obligations. Accordingly, the reasons for refusal do not constitute proper reasons for refusal of this development and if they are required to be addressed at appeal, considerable time and expense will be unreasonably incurred by our client.

For the avoidance of doubt, we set out our specific concerns below:

**Proposed reasons for refusal**

1. *The airport has planning permission to expand to a throughput of 10 million passengers per annum (mppa) which allows for further expansion in passenger growth of approximately 1 mppa above the current passenger level. The further expansion beyond 10mppa now proposed would generate additional noise, traffic and off airport car parking resulting in adverse environmental impacts on communities surrounding Bristol Airport and which would have an adverse impact on*

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*an inadequate surface access infrastructure contrary to Vision 1 and policy CS23 of the North Somerset Core Strategy 2017.*

- Vision 1, as its name suggests, is a vision not a policy of the development plan. The Core Strategy vision is achieved through the determination of planning applications in accordance with the Core Strategy policies. Therefore, it is plainly wrong to cite non-compliance with Vision 1 in this reason for refusal.
  - The reference to growth of 1mppa above the current passenger level in the reason for refusal is irrelevant to the determination of the Application. The Council has already determined that growth to 10mppa is acceptable in terms of environmental impact and has approved such growth in granting the 10mppa consent (reference 09/P/1020/OT2).
  - The environmental statement submitted with the Application demonstrates that the mitigation proposed satisfactorily resolves all environmental issues, including the impact of growth on surrounding communities and surface access infrastructure, in accordance with Policy CS23. This conclusion is supported by the Council's planning officers and relevant statutory consultees.
  - The reason for refusal contains no proper explanation as to why or how the Council has reasonably concluded that officers were wrong in recommending approval of the Application or why the Council has acted rationally in reaching a different conclusion.
2. *The proposed development does not make a sustainable contribution to economic objectives due to the scale of outbound leisure travel and with low skilled jobs at the airport giving way to automation it is uncertain that expansion will deliver additional and sustainable jobs. The claimed economic benefits arising from the proposal would therefore not outweigh the environmental harm caused by the development contrary to Vision 1 and the objectives of policy CS20 of the North Somerset Core Strategy 2017.*
- As noted above, reference to Vision 1 is plainly wrong. The reasons for refusal should be supported by policies of the Development Plan.
  - Policy CS20 is an employment-led policy requiring positive support for a successful economy. There is nothing within either Policy CS20 or its supporting text that makes reference to the scale of outbound leisure travel, or the level of automation. Regardless of its relevance to Policy CS20, outbound leisure travel is of social benefit and adds to the overall socio-economic wellbeing of the region. It is not Government policy to discourage people from travelling abroad or to prevent such travel by constraining airport capacity.
  - The proposed reason for refusal contains no evidence that the jobs created by the proposals for an additional 2mppa will be low-skilled nor that automation will reduce socio-economic benefit. In any event, an allowance for future automation is inherently included in the Economic Impact Assessment submitted in support of the Application and in this context, the application documentation demonstrates that the economic benefits of the growth of Bristol Airport to 12mppa would be significant. This conclusion has been accepted by officers and the Council's advisors.
  - The reason for refusal contains no rational basis on which members could have rejected the predicted socio-economic benefits of the proposed development.
3. *The noise and emissions generated by the increase in aircraft movements and in particular the proposed lifting of seasonal restrictions on night flights would have serious adverse effects on the health and well-being of residents in local communities and the proposed development would not contribute to improving the health and well-being of the local population contrary to policies CS3 and CS26 of the North Somerset Core Strategy 2017.*
- Policy CS26 concerns the promotion of improved health care services and strategies throughout the District. It is in no way relevant to the stated reason for refusal. The only relevant criterion of Policy 26 is to provide a Health Impact Assessment (**HIA**), which has been fully complied with.

- The conclusions of the environmental statement submitted with the Application demonstrate that there will be no significant adverse health effects in accordance with Core Policy CS3, a conclusion which is supported by the Council's officers and Public Health England.
  - The reason for refusal contains no explanation as to how the Council has reasonably concluded that officers were wrong or why the Council is rationally able to reach a different conclusion.
4. *The scale of greenhouse gas emissions generated by the proposed increase in passenger numbers would not reduce carbon emissions and would not contribute to the transition to a low carbon future and would exacerbate climate change contrary to the National Planning Policy Framework, policy CS1 of the North Somerset Core Strategy 2017 and the duty in the Climate Change Act 2008 (as amended) to ensure that the net UK carbon account for the year 2050 is at least 100% lower than the 1990 baseline.*
- Policy CS1 does not require refusal of development unless it reduces carbon emissions, to suggest otherwise would prevent the vast majority of development in North Somerset from proceeding.
  - The criterion against which net zero is considered is set out in section 1(1) of the Climate Change Act 2008. The Application demonstrates that additional greenhouse gas (GHG) emissions arising from the development would not compromise the Government's ability to meet net zero and would be insignificant in the context of the UK's carbon budgets; this conclusion is supported by officers. Compliance with the Government's obligations in terms of net zero does not preclude growth in the aviation sector. This has been misunderstood by the Council. Further, members should note that the applicant has, through the Application documentation, presented significant evidence of planned mitigation of GHG emissions.
  - The reason for refusal contains no rational explanation as to why the Application should be refused on this basis, and should explain why the Council has concluded that the GHG emissions from the proposed development would be material to the UK's ability to meet its climate change targets.
5. *The proposed development would have an adverse impact on wildlife habitats including bat roosting and foraging and thereby would not maintain and enhance biodiversity contrary to policies CS4 of the North Somerset Core Strategy 2017 and DM8 of the Development Management Policies Sites and Policies Plan Part 1 2016.*
- The Application fully complies with the principles and requirements of Policies CS4 and DM8, as agreed by the Council's ecological consultant and Natural England.
  - The Council's officers have accepted a range of ecological mitigation measures put forward by the applicant, which would be secured by planning condition, and the applicant has additionally demonstrated certainty as to that mitigation's delivery in accordance with the Council's own adopted Supplementary Planning Document to the satisfaction of both Council's officers and Natural England.
  - The proposed reason for refusal does not indicate how the Council has rationally rejected the clear advice of its officers (including that presented by Sarah Dale at the Special Meeting of the Committee on 10 February 2020), to come to a completely contrary conclusion without any proper evidential basis.
6. *The proposed extension to the Silver Zone car park and the year round use of the seasonal car park constitute inappropriate development in the Green Belt which is by definition harmful to the Green Belt. There are no very special circumstances which outweigh the harm to the Green Belt caused by reason of inappropriateness, the encroachment of development on the countryside and loss of openness contrary to policy CS6 of the North Somerset Core Strategy 2017 and DM12 of the Development Management Policies Sites and Policies Plan Part 1 2016.*

- Policy CS6 deals with amendments to the Green Belt boundary. The Application does not seek to make any amendments to the Green Belt boundary. Policy CS6 is not, therefore, relevant and there is no proper reason for this policy to be included in the reason for refusal.
  - In relation to Policy DM12, the Council's officers considered that 'very special circumstances' including commercial considerations, parking demand and an absence of suitable alternative sites outside of the Green Belt exist to justify additional car parking in the Green Belt. Importantly, the 'very special circumstances' put forward by the applicant and the officer's conclusion are consistent with previous decisions taken by the Council relating to airport car parking in the Green Belt and that were upheld in the Courts.
  - The reason for refusal contains no explanation as to why the Council has reasonably reached a conclusion which differs from the recommendation of the Council's officers, or the Council's previous application of 'very special circumstances' in this context.
7. *The proposed public transport provision is inadequate and will not sufficiently reduce the reliance on the car to access the airport resulting in an unacceptable increase in traffic volumes, congestion and parking on the local road network contrary to policy CS10 of the North Somerset Core Strategy 2017.*
- The Application complies with every relevant element of Policy CS10, as supported by the Council's officers in their role as local highway authority. Importantly, the Transport Assessment submitted in support of the Application has demonstrated that the highways impacts of an additional 2mpa would be acceptable at a 15% public transport mode share. Notwithstanding this conclusion, the applicant has agreed with officers to a higher public transport mode share target of 17.5%.
  - The Council does not appear to have taken into account the extensive commitments of the applicant that have been agreed with the Council's officers and are proposed to be secured by planning condition and planning obligation to achieve a 17.5% public transport modal share. This includes significant, early investment in public transport. Further, the reason for refusal fails to identify what an acceptable level of mitigation would be.
  - The reason for refusal contains no explanation as to why the proposed measures are unacceptable or how the Council has reasonably concluded that such measures are inadequate.

We have reviewed the report to the Committee in respect of the meeting being held on 18 March 2020 and note the comments on the proposed reasons for refusal by the Council's officers, which echo many of the concerns we raise above.

In light of this we would remind the Council that examples, as set out in National Planning Guidance, where an award of costs may be made against local planning authorities, include failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis. Given this, we trust that the Council will fully consider and respond to each of the concerns we have identified above when finalising their reasons for refusal for the Application.

Yours faithfully

**Womble Bond Dickinson (UK) LLP**