

SUPPLEMENTARY PROOF OF EVIDENCE

HENRY CHURCH MRICS

On behalf of

Bristol Airport Limited

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

September 2021

CONTENTS

- 1.0 Introduction and Role 3
- 2.0 Objectors..... 4
- 3.0 Further Objection 5
- 4.0 Other parties with whom negotiations continue..... 6
- 5.0 Conclusion..... 8
- 6.0 Expert’s Declaration..... 9

APPENDICES

- A. HC10 – Lease in respect of Oakwood House..... 11

1.0 Introduction and Role

- 1.1 I refer to my Proof of Evidence (BAL/W9/2) and, by this Supplementary Proof, give an update on the position with respect to affected parties.

2.0 Objectors

OVERVIEW

- 2.1 Following the submission of my proof of evidence (BAL/W9/2), Bristol Airport Limited (BAL) and its consultants have continued to seek engagement with remaining affected parties.

AFFECTED PARTIES

Hawthorn Leisure (Mantle) Limited

Owner of plots 3 - 8

- 2.2 A meeting was held with Edward Little of Hawthorn Leisure on 24th June 2021 where an explanation was provided for the basis of BAL's most recent offer. During the call a counter proposal was made by Mr Little. Mr Little was advised instructions would be sought from BAL and a follow up call arranged.
- 2.3 A follow up meeting was held with Mr Little on 26th August 2021 and a revised offer was made orally to Mr Little who advised that he felt the offer was fair and he would recommend it be accepted by Hawthorn Leisure.
- 2.4 Formal confirmation is awaited that the offer is accepted, and a formal written agreement can then be progressed.

The Trustees of the Sir J V Wills Will Trust

Owner of plots 1 & 2

- 2.5 An offer to enter into a contract guaranteeing a minimum payment of compensation, and subject to any increased sums awarded by the Upper Tribunal of the Lands Chamber in the event that compensation cannot be agreed was made to Ms Black acting on behalf of the Sir JV Wills Will Trust on 25 May 2021 (see para 5.28 of my main Proof, BAL/W9/2), and remains open for acceptance.

North Somerset Council

- 2.6 I understand that North Somerset Council has recently returned the draft section 106 agreement to BAL with their comments. This is being reviewed by BAL but the revised draft agreement suggests that both parties are content for a licence agreement to be entered into to allow the Council to undertake the highway works, with the land which is to become highway to be dedicated to the Council on completion of the highway works. Further discussions between the parties are continuing.

3.0 Further Objection

OVERVIEW

- 3.1 Subsequent to the original submission of objections a further objection has been submitted. BAL sets out this response to be considered in the event that the late objection is accepted.

Mr Andrew John Lane and Airport Tavern Limited

Occupier Plots 3 - 8

Overview and Effects of scheme

- 3.2 The situation remains as set out in my main proof (BAL/W9/2).

Current position

- 3.3 The main concern raised in the objection letter is that the permanent and temporary occupation of the land at the Airport Tavern will have a detrimental impact on the car parking operation undertaken by Mr Lane.
- 3.4 A response was sent to Mr Lane's solicitor on 16th August 2021 confirming receipt of the Objection and advising that it was BAL's view that all of the issues raised in the Objection were capable of being addressed via compensation or under the terms of the proposed agreement.
- 3.5 A substantive response to the Heads of Terms sent to Mr Lane's solicitor on 4 September 2020 still remains outstanding from them despite further discussions between the parties.
- 3.6 A meeting was held on site with Mr Lane on 9 September 2021 to discuss any outstanding issues or queries he had in relation to the scheme. During the meeting Mr Lane was briefed on the basis of the proposed agreement and BAL's views about the clear benefits for both parties of entering into it.
- 3.7 In principle Mr Lane advised he was happy to proceed with the proposed agreement (which was sent by BAL's solicitors to Mr Lane's solicitors in February 2021 and advised he would instruct his legal advisor to progress the draft document with BAL's solicitor. It was agreed that discussions on consideration would continue in parallel with progressing the draft document.

4.0 Other parties with whom negotiations continue

- 4.1 I and members of the BAL team have continued to engage with all affected parties. The only exception is Vicky Hassell (see paragraph 6.24 of my main proof of evidence), the extent of whose interest has yet to be determined despite further investigations.
- 4.2 Set out below is a summary of those further negotiations

Mr Antony Nicholas Gould

Owner of plots 10 - 15

- 4.3 In my main proof I stated that we had been informed that Oakwood House (or part of it) was let to Mr Christopher Williams on an Assured Shorthold Tenancy. We were subsequently advised by Mr Gould's agent that Oakwood House (or part of it) was to be re-let to Mr Christopher Williams by a lease excluded from the security of tenure provisions of the Landlord and Tenant Act 1954. This lease completed on 24 July 2021 and I attach a copy (see Appendix HC10).
- 4.4 I have been engaging with Mr Gould's agent to seek to better understand the implications of this and, in particular, the nature of the Landlord's business referred to clause 4 in the lease (albeit not defined) and the operational arrangements. This states:

*"4. The Lease is granted in order to allow the Tenant to carry on the business of House share and the landlords business in the premises (The **"Approved Business"**) and for no other purpose whatsoever unless approved in writing by the landlord"*

- 4.5 These discussions continue and until I understand the extent of the interests of the parties in the land to be acquired it is not possible to progress the private treaty negotiation.
- 4.6 The Application for a Certificate of Lawfulness referred to in paragraph 6.13 of my Proof of Evidence was *"for the parking of vehicles which are not incidental to the lawful use of the site and as an airport parking transfer point"*. That has reference 20/P/0910/LDE and whilst submitted to North Somerset Council on 22 April 2020 it has not yet been determined. I have just discovered that a further application for a Certificate of Lawfulness for *"the change of use of land from garden land used incidentally to Oakwood House to use as a residential caravan site with associated garden land"* was submitted to North Somerset Council on 14 May 2021 (reference 21/P/1448/LDE) and is still awaiting determination.

Other parties with whom negotiations continue

Mr Christopher Shaun Williams

Occupier of plots 10 - 15

- 4.7 As I indicate at para 4.3 subsequent to submission of my Proof Mr Gould and Mr Williams have entered into a new lease.

I am in ongoing negotiations with Mr Williams's agent (who is also acting for Mr Gould) as to the implications of this agreement. As above until I understand the extent of the interests of the parties in the land to be acquired it is not possible to progress the private treaty negotiation.

5.0 Conclusion

- 5.1 I stand by the conclusions reached in my section 8 of my main Proof of Evidence (BAL/W9/2).

6.0 Expert's Declaration

Statement of truth

I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Declaration

- 1 I confirm that my report has drawn attention to all material facts which are relevant and have affected my professional opinion.
- 2 I confirm that I understand and have complied with my duty to the Inquiry as an expert witness which overrides any duty to those instructing or paying me, that I have given my evidence impartially and objectively, and that I will continue to comply with that duty as required.
- 3 I confirm that I am not instructed under any conditional or other success based fee arrangement.
- 4 I confirm that I have no conflicts of interest.
- 5 I confirm that I am aware of and have complied with the requirements of the rules, protocols and directions of the Inquiry.
- 6 I confirm that my report complies with the requirements of RICS – Royal Institution of Chartered Surveyors, as set down in the RICS practice statement Surveyors acting as expert witnesses'.

Henry John Church MRICS

16 September 2021

APPENDIX

HC10 – Lease in respect of Oakwood House

LANDLORD AND TENANT ACT 1954

THE LEASE

This Lease is made on the 24 day of July 2021

BETWEEN Anthony Gould (the "Landlord")

of Birds Farm, Kingdown Road, Winford, North Somerset, BS40 8DW

AND Chris Williams (the "Tenant")

of Beechwood House, Potters Hill, Lulsgate, North Somerset, BS40 9XA

WITNESSETH AS FOLLOWS:

THE LETTING

1. The Landlord lets and the Tenant takes the property known as **Oakwood House** which is more particularly edged in red on the Plan attached hereto (the "**Premises**") together with the benefit of the other rights set out in Schedule 1.

THE TERM

2. The Lease shall run for the period of 3 years from 1st August 2021 to 31st July 2024 inclusive.

RENT

3. The annual rent shall be £22,000 per annum (£1,850 per calendar month), payable in equal monthly payments in advance on the 1st day of each and every month by standing order (the "**Rent**").
- 3.1 The first payment of the Rent for the period from 1st August 2021 to 1st September 2021 and amounting to £1,850 is to be made on or before 1st August 2021.

THE BUSINESS

4. The Lease is granted in order to allow the Tenant to carry on the business of House share and the landlords business in the premises (the "**Approved Business**") and for no other purpose whatsoever unless approved in writing by the landlord.

LANDLORD'S RESERVATION

5. The Landlord shall reserve out of the Lease the rights set out in Schedule 2 hereto.

TENANT'S OBLIGATIONS

6. The Tenant agrees with the Landlord to perform all the obligations set out in Schedule 3 hereto.

LANDLORD'S AGREEMENTS

7. The Landlord agrees with the Tenant to comply with the obligations set out in Schedule 4 hereto.

TERMINATION

- 8.1 If the Premises shall be destroyed or damaged so as to be incapable of restoration for twelve months, this Lease may be terminated by either party giving the other three calendar months' notice in writing but without prejudice to any claim by the Landlord in respect of any antecedent breach of any of the terms of this Lease.
- 8.2 This Lease may be terminated by either party on 1st August 2022 by giving the other party not less than six months' notice in writing of their intention to terminate this Lease, but without prejudice to any of the obligations or remedies of either party against the other in respect of any claim or breach of covenant within this Lease.

DESTRUCTION

9. In the event of the whole or partial destruction of the Premises or inaccessibility as a result of any other premises on the development being damaged or destroyed so that they are rendered unavailable for occupation, the Tenant will be relieved of his obligation to pay rent or a reasonable proportion thereof, such proportion, failing agreement between the Landlord and the Tenant, to be determined in accordance with clause 14 below (unless any insurance monies are irrecoverable because of any act or default of the Tenant or any person authorised by him to be on the Premises), until the Premises are rebuilt and reinstated to a degree where reoccupation or access is possible.

FORFEITURE

10. If any part of the rent shall be unpaid for twenty-one days, whether formally demanded or not, or if any of the agreements of the Tenant shall not be performed or observed, or if the Tenant shall become bankrupt or make any assignment or composition for the benefit of creditors or suffer any distress or process or execution, or, being a company, shall go into liquidation, then the Landlord may re-enter upon the Premises or any part thereof (in the name of the whole) and this Lease shall absolutely determine but without any prejudice to the rights of the Landlord in respect of any antecedent breach of the Tenant's obligations.

OTHER RIGHTS

11. The Tenant is granted no other rights or easements other than those specifically granted by this Lease.
12. For the purposes of the Contracts (Rights of Third Parties) Act 1999 it is agreed that nothing in this Lease shall confer on any third party any right to enforce or any benefit of any term of this Lease.

EXCLUSION OF SECTIONS 24-28 LANDLORD AND TENANT ACT 1954

13. The Landlord and Tenant agree to exclude the provisions of Sections 24 to 28 of the 1954 Act in relation to the tenancy created by this Lease. The Tenant confirms that:
- (1) The Landlord served on the Tenant a notice (the "**Notice**") dated 14th July 2021 in relation to the tenancy created by this Lease in a form complying with the requirements of Schedule 1 to the Regulatory Reform (Business Tenancies) (England and Wales) Order 2003;

- (2) The Tenant or a person duly authorised by the Tenant in relation to the Notice made a declaration (the "**Declaration**") dated _____ in a form complying with the requirements of Schedule 2 to the 2003 Order;
- (3) Where the Declaration was made by a person other than the Tenant, the declarant was duly authorised by the Tenant to make the Declaration on the Tenant's behalf; and
- (4) The Tenant was not contractually bound to enter into the tenancy created by this Lease.

ARBITRATION

14. Any matter which this Lease requires to be decided by arbitration is to be referred to a single arbitrator under the Arbitration Acts. The Landlord and Tenant may agree the appointment of the arbitrator or either of them may apply to the President for the time being of the Royal Institution of Chartered Surveyors to make the appointment.

PUNCTUATION AND SUB-HEADINGS

15. All punctuation and sub-headings in this Lease are for the convenience of the reader and shall not affect the construction or legal effect hereof.

THIS Lease is a new lease for the purposes of the Landlord and Tenant (Covenants) Act 1995.

THIS Lease is executed as a deed and is delivered on the date stated at the beginning of this deed.

Schedule I

Rights Granted to the Tenant

1. The right (in common with all others similarly entitled) of free and uninterrupted passage and running of water, soil, electricity and gas to, and from the Premises through the drains pipes wires and cables in any other premises of the Landlord which now serve the Premises and the right to make connections with such drains pipes wires and cables.
2. The right (in common with all others similarly entitled and with the Landlord and all other persons who are authorised by him):
 - (1) to pass and re-pass with or without vehicles at all times over the access road shown hatched blue on the Plan attached hereto for the purposes of obtaining access to the demised Premises;
 - (2) the right to pass and re-pass on foot only around the outside of the Premises in order to maintain gutters and comply with the obligations hereunder; and

Schedule 2

Rights Reserved to the Landlord

1. The free passage of running water, soil, gas, electricity and other services from or to other buildings and land owned by the Landlord or others through the mains, pipes, sewers, drains channels and cables in, under or over the Premises together with the right to lay, construct and maintain (or permit to be laid, constructed and maintained) in, under or over such part of the Premises as shall not be built upon, such further mains, pipes, sewers, drains, channels, cables, manholes, stopcocks, inspection chambers and similar apparatus as may be (in the opinion of the Landlord) necessary during the said term, together also with the right for the Landlord and any other person lawfully authorised to enter upon the Premises or any part thereof in connection with such apparatus, subject to the Landlord or any such person making good all damage caused.
2. The full right and liberty for the Landlord and others to do works or to alter and rebuild any of the buildings erected on adjoining and neighbouring lands in such manner as he or they may think fit notwithstanding that interference may thereby be caused to the access of light and air to the Premises.
3. All rights of light, air and other easements and rights (other than those expressly granted to the Tenant by this Lease) now or hereafter belonging to or enjoyed by the Premises from or over any adjacent or neighbouring land or building.
4. All rights of support and shelter and all other easements and rights now or hereafter belonging to or enjoyed by all the adjacent or neighbouring land or buildings in which the Landlord may have any interest.

Schedule 3

The Tenant's Obligations

PAYMENT

1.
 - 1.1 To pay the Rent to the Landlord on the dates stated in clause 3 whether or not it is demanded and if so requested and supplied with the necessary information in writing to arrange payment of the rent by direct transfer to the Landlord's bank account;
 - 1.2 To pay the new Rent following receipt of written notice in accordance with clauses 3, 3.1 and **Error! Reference source not found.** above, but there shall be no liability to pay any increase in rent for more than three months before receipt of such notice.
2. To pay all rates, charges and outgoings relating to the Premises (including all charges relating to electricity, gas, drainage, water, internet, telephone and business rates);
3. To pay interest at the rate of 4% over the base rate of NatWest Bank plc on any sums that are outstanding more than 14 days after they fall due;
4. To pay the insurance premium in accordance with paragraph 2 of Schedule 4 to be paid within 14 days after the Landlord gives written notice of payment (and this amount is to be paid as rent).
5. To pay Value Added Tax in addition to the rent and other payments due to the Landlord hereunder upon production of a valid VAT invoice.
6.
 - ~~6.1 To pay a deposit of [£[] inclusive of VAT ?] at the commencement of the Lease which shall be returned to the Tenant upon the termination of the Lease together with any interest accrued (at the rate referred to in paragraph 3 of this Schedule 3) providing the premises are vacated in accordance with the terms of this Lease.~~
 - 6.2 To pay a contribution of £250 + VAT towards the Landlord's costs for setting up this Lease.
 - 6.3 To pay a contribution of £100 + VAT towards the Landlord's costs for the renewal of this Lease.

MAINTENANCE

7. To maintain in good and clean condition the interior of the Premises and the area immediately outside, together with the Landlord's fixtures and fittings in the Premises; when necessary to replace with equivalents of the same quality any that are damaged or missing, to keep the exterior clean and tidy and the gutters and downpipes clear of obstruction; and any dispute under this clause is to be decided by arbitration.
8. To allow the Landlord and his Agent to enter the Premises on 24 hours' notice (save in the case of emergency when he or him may enter at once) to examine the state and condition of the Premises throughout and that the Tenant will make good at his own cost any defects within one month of receipt of any written request specifying the defects and the necessary remedial action; and any dispute under this clause is to be decided by arbitration.

USER

9. Not to carry on in the Premises any activity other than the Approved Business at all times and during normal working hours which shall be 8 am to 7 pm Monday to Friday and 8 am to 1 pm Saturday, at any other time by agreement with the Landlord and the Tenant shall determine whether the Premises are suitable, and can legally be used, for such purpose.
10. Not to overload or misuse the Premises or their structure.

11. Not to permit the Premises to be used for any illegal or immoral purpose, nor to do or permit anything which shall be a nuisance or annoyance to the Landlord or to any other tenant or occupier of neighbouring premises.
12. To comply with all requirements of national, local or public authorities and with all statutory or legal requirements in respect of the use of the Premises generally at the Tenant's expense and, on demand, to produce evidence to the Landlord of such compliance and to supply copies of all notices received from or correspondence with, any such authorities, to the Landlord within one week of receipt or dispatch.
13. Not to hold, permit or suffer to be held any public sale or any auction on the premises other than retail sales relating to the Approved Business and on a scale commensurate therewith.
14. To remove any object or cease any activity which may be, or become a nuisance (whether because of noise, vibration, dust, smoke, vapour, gas or otherwise).
15. Not without the prior written consent of the Landlord, to bring onto, or permit on, the Premises any dangerous or noxious substance or thing, inflammable material or high temperature equipment.
16. Not to use any entrance other than the one so marked on the Plan attached hereto.

ALTERATIONS

17. Not in any way to alter, add to, interfere with, drill or make holes in, modify or affix anything to, the structure or interior of the Premises without the prior written permission of the Landlord.
18. Not to affix to the Premises nor to display any notice sign or publicity, unless it and its proposed position have been approved in writing by the Landlord and to remove any such notice, sign or publicity immediately on the request of the Landlord.

INDEMNITY ETC

19. To indemnify the Landlord absolutely against any loss or damage he may suffer on account of any injury (including fatal injury) or damage to personal property due to or arising from any act, neglect or default of the Tenant or any person on the Premises with the Tenant's authority or on account of any breach of any covenant contained in this Lease.
20. To pay all the Landlord's costs in connection with any schedule of dilapidations or any notice pursuant to Section 146 or 147 of the Law of Property Act 1925 notwithstanding that forfeiture may be avoided otherwise than by relief granted by the Court.
21. Not to permit any encroachment, right or easement to be made nor to make any new access way through the boundary walls of the Premises.
22. Not to do or permit on the Premises anything which might vitiate in any way any insurance policy whatsoever of the Landlord.

NOT TO ASSIGN, UNDERLET OR SHARE POSSESSION ETC

23. Not to charge (whether at equity or law), mortgage, assign underlet, share or part with possession or occupation of the Premises or any part thereof without prior written consent from the Landlord.

REIMBURSEMENT FOR DAMAGE

24. Should the Premises or any of the Landlord's adjoining or adjacent premises be damaged and insurance monies be irrecoverable by reason or any act of default of the Tenant or any person on the Premises by his authority, to pay a fair proportion of the cost of re-building and reinstatement which, in the case of dispute, shall be decided in accordance with clause 14 above.

LANDLORD'S RIGHT OF ENTRY

25. During the final six months of the tenancy, to permit the Landlord to erect signs on the Premises relating to their future occupation and to permit persons authorised by him to view them.
26. Without prejudice to paragraph 7 of this Schedule 3 on failure of the Tenant to comply with the written notice set out in paragraph 8 of this Schedule 3 to permit the Landlord and his Agent or workmen to enter onto the Premises and to do any work required to be done on the Premises at the Tenant's cost, and such cost shall be payable by the Tenant to the Landlord on demand and shall be recoverable as rent in arrears.
27. To permit the Landlord's Agent and workmen to enter the Premises to examine, repair or rebuild any adjoining or contiguous premises, or to clean, empty, repair or renew any services or for any other reasonable purpose and to make good at the Landlord's own expense any damage to the Premises hereby demised in the exercise of such right.

ON TERMINATION

28. To re-decorate the whole of the interior of the Premises in a workmanlike manner within the last six months of the term in a colour or colours to be approved by the Landlord or his Agent and upon termination to leave the Premises in good and clean condition.
29. On the termination of the term, peaceably and quietly to deliver up vacant possession of the Premises (with all additions thereto) to the Landlord in substantially the same state and condition that the Premises enjoyed at the commencement of the Term.
30. On the termination of the Lease to clear the Premises of rubbish and free of the Tenant's equipment, goods and chattels and any such items not removed may be disposed of or sold by the Landlord who may recoup his costs including those of disposal or sale and charges for storage after the date of termination of the Lease.
31. Any dispute arising under paragraphs 28, 29 and 30 is to be decided by arbitration.

Schedule 4

The Landlord's Obligations

QUIET ENJOYMENT

1. So long as the Tenant pays the rent and observes and performs the covenants, conditions and agreements set out in this Lease, the Tenant will be permitted quietly to enjoy the Premises during the term of this Lease.

INSURANCE

2. To maintain a full all-risks insurance cover in respect of the Premises, but not the contents, to their full reinstatement value including all professional fees, and cover for loss of rent. The premium for all such insurance, or so much of it as relates to the Premises of the Tenant's activities, will be paid to the Landlord by the Tenant by way of additional rent.
3. Unless insurance monies are irrecoverable because of any act or default of the Tenant or any person authorised by him to be on the Premises to rebuild or reinstate the Premises.

REPAIRS

4. To keep the structure and exterior of the Premises, the access road and car parking area in good and tenantable repair.

Schedule 5

Provision for Rent Review

1. From the Review Date the Rent payable under clause **Error! Reference source not found.** above shall be the greater of:
2. The Rent payable immediately before the review date, or
3. The new Rent calculated in accordance with the following formula:

$$NR = R \times A/B$$

Where

NR is the new Rent

R is the Rent payable immediately before the Review Date

A is the latest available figure published in the Retail Price Index immediately prior to the Review Date, and

B is the figure published for the month before the start of the tenancy or, if the review is not the first review, it is the figure adopted for A in the previous review.

THE LEASE

between
Mr Anthony Gould

and

Mr Chris Williams

for property known as
Oakwood House

SIGNED AND DELIVERED as a **DEED**
by the said Anthony Gould



"Landlord"

Witness's signature:



Witness

Witness's name (please print):

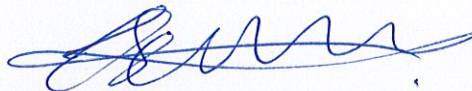
LUKE SMITH.

Witness's address:

6 Stanshalls close
Felton bristol

BS40 9UJ

SIGNED AND DELIVERED as a **DEED**
by the said Chris Williams



"Tenant"

Witness's signature:



Witness

Witness's name (please print):

LUKE SMITH

Witness's address:

6 Stanshalls close
Felton bristol

BS40 9UJ

