

RE: LAND AT HATFIELD AERODROME

PLANNING APPEAL REFERENCE: APP/M1900/W/21/3278097

LPA Reference: 5/0394-16

NOTE ON AMENDMENT AND SUBSTITUTION OF PLANS

1. The Inspector has asked for a Note to clarify how the appellant says that the appeal scheme may be amended and such amendments secured and made clear in any planning permission which may be granted.
2. The appellant refers to its Note dated 2 November and incorporates its contents here, and does not repeat them.
3. The four changes are now well known to the Inquiry: no CBP; slight movement and change in configuration of the access road; a LMH standoff in the NE of the site; no pumping (even though HCC/EA/Affinity were content to accept some pumping of Phase G).
4. The first two obviously require plans to be approved which are different to those submitted with the 2016 scheme. So, it is proposed to substitute such plans from the 2021 scheme as are necessary to

achieve that outcome. They are: HQ3/1, HQ3/2 and HQ3/3, all dated August 2021, as opposed to November 2015. If it is not necessary to substitute a plan from the 2021 scheme for an equivalent plan in the 2016, then it is not proposed to do so.

5. It is not proposed to substitute one application for another.
6. That leaves pumping and stand-off.
7. 'No pumping' was always an option open to any decision-maker by use of a condition. It is open to the Inspector here by way of a simple condition. It does not require any different plan. As it happens, it has been assessed in the 2021 ES.
8. It is wrong to conflate the provision of the 2021 ES in response to the Regulation 22 request from PINS on 22 Sept 2021 with the appellant's application to amend.
9. Lastly, there is the stand-off. The easiest way to achieve that is by way of a simple condition such as, *No mineral extraction will take place in the Lower Mineral Horizon in the site within a distance of 100m from the bromate plume as measured from BH104 (which borehole is shown on Drawing HQ6/5)*
10. HCC correctly understood the above. During the afternoon of the first day of the Inquiry, the Council submitted:

- a. The application and appeal description includes the CBP
- b. One cannot substitute a later application for that at appeal.

That is not what is being done. The 2021 plans omitting the CBP and moving the road access 5m or so are sought to be substituted. Also the LMH is not to be worked for 50m

further into the site and no pumping. It is still the 2016 application amended by reference to four matters

- c. The CBP – it makes no difference how it is removed – think that use of UU is the correct way
- d. Then be asked to determine the 2016 application and appeal on that amended basis with conditions on the standoff and no pumping
- e. The 2021 scheme will remain before the Council for determination. Will not determine until receive the appeal decision.

11. The remaining points were concerned with prejudice.

Richard Kimblin QC

25th November 2021

No. 5 Chambers
London • Birmingham • Bristol • Leicester

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