

DISCUSSION NOTE BY GUILDFORD BOROUGH COUNCIL
CONCERNING THE WISLEY AIRFIELD DECISION

Introduction

1. The Secretary of State's decision in relation to Wisley Airfield¹ was published on 13th June 2016. The Secretary of State decided to refuse planning permission and dismiss the appeal.
2. This outcome was in accordance with the position adopted by the Council at the appeal, notwithstanding its proposed allocation in the Local Plan.
3. The Council will reflect on the detail of the decision letter.
4. However, the Council makes the following four preliminary points in relation to the impact of the Wisley Airfield decision in relation to the Local Plan process, and the allocation A35.

(1) Legal Framework

5. As the Local Plan Inspector has already indicated, there is a significant difference between, on the one hand, the determination of a particular planning proposal in the context of an existing development plan and, on the other, the consideration of the soundness of an allocation in a plan-making context – in effect determining that the development plan should be.
6. In particular, different tests apply.
7. When deciding a planning application/appeal the decision-maker is required by Statute to determine the proposal “in accordance with the [existing development] plan, unless material considerations indicate otherwise.”²
8. The emerging Local Plan would only be a material consideration at best, and given the stage at which it had reached, one of limited weight (which is all that was accorded to it – see below).
9. By contrast, the duty of an Inspector examining a Local Plan is to determine whether the plan is “sound” and whether it complies with a number of legislative requirements (e.g. the duty to co-operate).³ Soundness is not defined in legislation, but the policy criteria

¹ APP/Y3615/W/16/3159894

² Section 38(6) Planning and Compulsory Purchase Act 2004; Section 70(2) Town and Country Planning Act 1990. The current development plan consists of the saved policies of the Guildford Borough Local Plan 2003; a saved policy of the South East Plan 2009; and the Surrey Waste Plan 2008.

³ Section 20(5) Planning and Compulsory Purchase Act 2004

set out in para 182 NPPF require that a plan is: (i) positively prepared, (ii) justified, (iii) effective and (iv) consistent with national policy.⁴

10. Moreover, different considerations apply to decisions concerning the Green Belt; it being recognised in the Framework (paragraph 83) that the appropriate time to have regard to changing Green Belt boundaries is within the Local Plan process.

11. Further, as GBC noted in its closing submissions to the appeal Inspector, the test for granting permission for inappropriate development in the Green Belt in a development management process – being the ‘-very special circumstances test’ – is stricter than the ‘exceptional circumstances test’ applied in the Local Plan context – see IR8.32. See also IR20.161.

(For the avoidance of doubt that does not denote any suggestion that the exceptional circumstances test is itself a low hurdle.)

(2) The Council’s stance on the proper approach to decision making in respect of Wisley

12. The Council has consistently taken the view that the appropriate mechanism for bringing forward development at Wisley is first via the plan-making process, and not ahead of it.

13. Specifically, the Council defended the appeal on the basis that, ahead of the Local Plan process, very special circumstances did not exist to justify the harm caused to the Green Belt by the development proposed.

14. However, it has constantly been – and remains – of the view that, when viewed in the Local Plan context, exceptional circumstances do exist for releasing the Wisley Airfield site from the Green Belt.

(3) Implications of the decision itself on the submitted plan and consideration thereof

15. No necessary/immediate changes to the submitted Local Plan or 5YHLS needs to be made in light of the decision.

16. Importantly, Wisley Airfield was not included within the plan as a committed development. It was included only as an allocation, and can and should continue as such.

(4) Initial observations of the reasoning supporting the decision

17. It is the Council’s view that the Secretary of State’s decision does not undermine the soundness of the allocation of Wisley Airfield.

18. As well as the different context and tests referred to above, the Council notes in particular:

⁴ However, soundness is ultimately a matter for the examining inspector and he may depart from the NPPF guidance with reasons.

- a. The Secretary of State, unsurprisingly, afforded “substantial weight” to the harm to the Green belt (both definitional and harm to openness).⁵ This consideration, which was central to the Secretary of State’s conclusion, would not apply to future applications if the site were removed from the Green Belt as part of the Local Plan process. As noted above, whether it should be so removed involves different considerations than concerned in the appeal process.
- b. In terms of impact on the Strategic Road Network (SRN), both the Inspector, and Secretary of State - again unsurprisingly – gave ‘substantial weight’ to the objection of HE to the scheme.⁶ However, the latest position statement agreed between the Appellant and HE on 11th June 2018, indicates that, “*subject to the documentation of terms agreed below [it is assumed within a section 106 agreement or similar] Highways England is expected to be able to withdraw its object to the Wisley Airfield appeal scheme...*” A copy of that position statement is attached. This indicates that the concerns expressed by the Inspector and Secretary of State about the adequacy of the SRN highway infrastructure is capable of being resolved, if it has not already been.
- c. The finding that there would be ‘inevitable’⁷ harm to the character and appearance of the landscape caused by the location of a new settlement in a rural area illustrates exactly why the development must come forward as part of the Local Plan process. It is only through this process that consideration can properly be given, on a holistic basis, as to whether such harm is justified, taking into account *inter alia* the degree of housing need and the potential for alternative provision (of lack thereof). As the Inspector noted *‘The allocation of the site by GBC in the eLP for a new settlement is due to the need for GBC to provide sites for more housing and, given the severe constraints within the Borough, GBC accepts that some harm is inevitable, regardless of where in the Borough the housing is provided.’*⁸
- d. The emerging Local Plan was given limited weight.

19. It is also to be noted that the particular proposal under scrutiny was, at least in part, considered to be inconsistent with the allocation in A35.

20. In particular, the Inspector, having noted that quantum of development proposed was very similar to that identified in the allocation, concluded that the “*residue of the land, surrounding Bridge End Farm, would remain within the eLP site allocation and its development for housing would result in a rather larger new settlement than envisaged in the eLP. To the extent that the appeal scheme proposes almost as much development on the appeal site as Policy A35 allocates on a larger site, the appeal proposals are not wholly*

⁵ DL38

⁶ DL23, 38 and IR20.59

⁷ IR, 0.100

⁸ IR20.87

*consistent with the eLP.*⁹ On this basis the Inspector reduced the amount of weight given to the fact that Wisley Airfield is an allocation in the submitted Local Plan.

21. This inconsistency with the A35 allocation also had ramifications for the Inspector's conclusions as to the impact of the particular proposal on the character and appearance of the landscape. Notably the Inspector specifically concluded that the consequence of the inconsistencies with the allocation was the 'exacerbation' of harm to the character of the area.¹⁰

⁹ IR 20.160

¹⁰ "20.93 The second constraint is the TBHSPA which lies to the north. There is no housing permitted within 400m of it and this influences the size and shape of the developable part of the appeal site, making it excessively linear in form. The land to the north would be used to provide a SANG which, together with the land ownership constraints, which make up the third constraint, reduces the width of any development. This resultant roughly rectangular shape differs slightly from the shape of the site allocation in the eLP which includes more land to the south around Bridge End Farm. The inclusion of that additional land, with the same amount of development as set out in eLP Policy A35, would allow a less dense and linear development, as envisaged in the eLP.

20.94 These constraints, and in particular the TBHSPA, means that in order to provide all the proposed housing and other elements of the new settlement it appears to be squeezed from the north and the south, forcing the development upwards and resulting in a highly urban character. This is partly a consequence of the site being considerably smaller than the site that GBC intends to allocate in eLP Policy A35. While any development of this scale on this site would appear out of keeping with its surroundings, the additional constraint imposed by a smaller site seems to exacerbate the harm to the character of the area. (emphasis added)

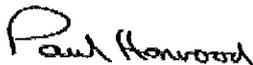
Agreed Position Statement Between Highways England and Wisley Property Investments Ltd

- 1) Highways England has agreed with Wisley Property Investments Ltd that sufficient progress has been made such that, subject to documentation of the terms agreed below, Highways England is expected to be able to withdraw its objection to the Wisley Airfield appeal scheme on the following terms:
 - a) Other than "Preparatory Operations" as defined below, which shall not generate vehicle trips entering or exiting the site in excess of those envisaged to be produced by the Implemented Consent for In Vessel Composting (being 60¹ daily two way trips), no part of the proposed development shall commence until Highways England has advised the local planning authority in writing that the main works to construct the M25 J10 RIS scheme have commenced.
 - b) No part of the proposed development shall be occupied until Highways England has advised the local planning authority in writing that the main works to construct the M25 J10 RIS scheme are complete and have been opened to public traffic.
 - c) In recognition that the M25 J10 RIS scheme may not provide sufficient capacity between Ockham and M25 Junction to satisfy paragraph 9 of Department for Transport Circular 02/2013, Wisley Property Investments Ltd will make a financial contribution in lieu of the provision by the developer of:
 - i) the measures shown on plan reference 0934/SK/017 Rev Q to the westbound carriageway of the A3 between M25 Junction 10 and Ockham roundabout;
 - ii) measures to provide a fourth lane to the existing eastbound carriageway of the A3 between Ockham roundabout and M25 Junction 10 in line with plan reference 0934-SK-050-D or another agreed scheme for the provision of works to provide a north bound lane gain, and based on an agreed proportional impact of the development in the context of the overall cost of the RIS scheme.
- 2) This financial contribution will be made prior to the occupation of more than 500 dwellings at the development in accordance with a Unilateral Undertaking to be provided by Wisley Property Investments Ltd pursuant to section 106 of the Town and Country Planning Act 1990, such contribution to be the reasonable amount estimated by Highways England as being equivalent to the cost of delivering or procuring the delivery of the works described in paragraph 1(c) above including a commuted sum for additional maintenance costs.
- 3) 1 (c) (i) above is consistent with draft condition 36 already agreed with Guildford Borough Council and Surrey County Council and submitted to the Wisley Airfield Appeal Inquiry, as set out below, and which does not therefore require further amendment:

"No more than 500 dwellings in the development hereby permitted shall be occupied until either the works in accordance with plan reference. 0934/SK/017 Rev Q have been completed or M25 Junction 10 improvements materially in accordance with either Option 9 or Option 14 of the Roads Investment Strategy Scheme for the Improvement of the M25 Junction 10 (5th December 2016) or an alternative option containing materially equivalent mitigation effects have been implemented by Highways England."

¹ Source – Proof of Evidence of Ian King (pba) September 2009

- 4) The proposed Unilateral Undertaking will provide for additional mitigation to be funded by the developer beyond that secured by condition 36 and the other highway measures secured by the planning conditions and obligations already agreed by the developer. The financial contribution payable by the developer will reimburse Highways England some of its costs in delivering the M25 J10 RIS scheme.
- 5) In respect of the proposed slip roads at Burnt Common, further Wisley Property Investments Ltd has provided all of the information required by Highways England, but Highways England has not yet completed its review of this work to establish the impact of the slip roads, particularly in the context of other options that may be brought forward and the obligations imposed on Highways England by its licence to operate as a strategic highways company. On the basis of the work carried out already however, Highways England have previously agreed that the slip roads may be secured by the Grampian planning obligation provided for within the s.106 agreement between Wisley Property Investments Ltd, Guildford Borough Council and Surrey County Council dated 9th November 2017.
- 6) "Preparatory Operation" in this statement has the same meaning as defined in the s. 106 agreement and means an operation or item of work of or connected with or ancillary to archaeological investigation, exploratory boreholes and trial pits, survey of existing structures, demolition, site clearance and excavation (including associated temporary works) or site preparation, site reclamation and site remediation works, preliminary landscaping, diversion, decommissioning or laying of services for the supply or carriage of water, sewerage, gas, electricity, telecommunications or other media or utilities, the erection of fences, hoardings and scaffolding and construction of temporary access and service roads, constructing the SANG (including but not limited to constructing the SANG car park and the SANG access road), constructing the new access road from the A3/Ockham Interchange, constructing the new bridge over the Stratford Brook stream, constructing the plant access via Old Lane, and other works and site establishment preparatory to the commencement of construction including temporary extinguishment and closure of public rights affecting the Site and operations permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015.



Paul Harwood
On Behalf of Highways England

11 June 2018


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On behalf of Wisley Property Investments Ltd

Date.....11.....June.....