



# Crawley

Local Plan

Ref No:

Office use only

## Crawley Submission draft Local Plan Representation

Please return your completed representation form to Crawley Borough Council.

Representations can be made via this form and emailed to [strategic.planning@ Crawley.gov.uk](mailto:strategic.planning@ Crawley.gov.uk) or sent via post to: Local Plan Consultation, Strategic Planning, Crawley Borough Council, Town Hall, The Boulevard, Crawley, RH10 1UZ. Alternatively, representations can be made online using the [eform](#) which allows attachments of documents.

This form has two parts:

### PART A – Personal details

By law, representations cannot be made anonymously. All representations will be published alongside your name, company name (if applicable), and your client's name/company (if applicable). The Council will use the information you submit to assist with formulating planning policy.

Further information about Data Protection Rights in line with the provisions of the General Data Protection Regulations and Data Protection Act 2018, for example, how to contact the Data Protection Officer, how long information is held or how we process your personal information can be found at [www.crawley.gov.uk/privacy](http://www.crawley.gov.uk/privacy). Specific reference to the Local Plan and planning policy related public consultation can be found [here](#).

### PART B – Your representation

Please fill in a separate sheet for each representation you wish to make. You may submit multiple "PART B" sections with a single "PART A" completed.

## PART A – Personal details

Please ensure that you complete all fields in 1. If a planning agent is appointed, please enter the Title, Name and Organisation in 1, and complete the full contact details of the agent in 2.

	1. Personal details	2. Agent's details
Title:	Mr	Mr
First name:	Howard	Tim
Surname:	Dove	North
Organisation:	HX Properties Limited	Tim North & Associates Ltd
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## PART B – Your representation

### 3. Please tick the document that you would like to make a representation on:

- Crawley submission Local Plan
- Crawley submission Local Plan Map
- Crawley submission Sustainability Appraisal
- Habitats Regulation Assessment Screening Report

### 4. Which part of the Local Plan does this representation relate to?

Paragraph:		Policy:	EC7 along with paragraphs 9.84 to 9.89	Other:	
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### 5. Do you consider the Local Plan to be: *(Please tick)*

- |                                             |     |                                     |    |                                     |
|---------------------------------------------|-----|-------------------------------------|----|-------------------------------------|
| 5.1. Legally compliant?                     | Yes | <input checked="" type="checkbox"/> | No | <input type="checkbox"/>            |
| 5.2. Sound?                                 | Yes | <input type="checkbox"/>            | No | <input checked="" type="checkbox"/> |
| 5.3. Compliant with the duty to co-operate? | Yes | <input checked="" type="checkbox"/> | No | <input type="checkbox"/>            |

### 6. Please give details explaining your response to 5.1, 5.2, or 5.3 below. Please be as clear as possible.

Please see attached correspondence dated 18 February 2021.  
Dear Sirs

#### **Draft Crawley Borough Local Plan 2021-2037 January 2021 Regulation 19 Consultation**

Your records will reveal that my clients, HX Properties Ltd raised an objection to Policy EC6 of the Regulation 19 version of the Draft Crawley Borough Local Plan 2020-2035, along with the reasoned justification, including paragraphs 9.72 to 9.74 inclusive. It has been

noted that Policy EC6 previously concerned with “*Visitor Accommodation*” has been amended and now forms part of Policy EC7 falling under the title “*Hotel and Visitor Accommodation*” in the latest Draft Crawley Borough Local Plan 2021-2037 (hereinafter referred to as the DCBLP 2021-2037).

My clients, HX Properties Ltd, continue to object to Policy EC7 along with paragraphs 9.84 to 9.89 which set out the intention, and provide the reasoned justification behind the same policy. It is contended that this amended policy and supporting text are unsound, in that they have not been positively prepared, neither are they justified, nor are they consistent with national policy. The remainder of these representations set out the reasons for arriving at this view.

There has been a fundamental change in the wording of Policy EC7 of the DCBLP 2021-2037 when compared with the earlier version of the same policy. The basis of Policy EC7 continues to rely on the sequential test in providing for hotel and visitor accommodation in accordance with paragraphs 86, 89 and 90 of the NPPF 2019, along with paragraph 009 Reference ID: 2b-009-20190722 of the NPPG on “*Town Centres and Retail*”. In this way, retail and leisure development are to be guided towards town centre locations first, and then if no town centre locations are available, to edge of centre locations, and only if suitable sites are not available or expected to become available within a reasonable period, should out of centre sites be considered. This fundamental aspect of national policy, was fully supported in Policy EC6 forming part of the Draft Crawley Borough Local Plan 2020-2035.

It is noted that “*Gatwick Airport*” is now inserted into Policy EC7 on the premise that it comprises a “*sustainable location for hotels*”. Gatwick Airport in terms of hotel and visitor accommodation is clearly not a town centre location, or an edge of centre location, and in considering these uses there is no justification in national or local policy terms for Gatwick

Airport to be treated with equal weight in terms of hotel and visitor accommodation to locations in Crawley Town Centre as part of the sequential test.

The consultation response from Gatwick Airport Limited (hereinafter referred to as GAL) to Policy EC6 of the earlier Regulation 19 version of the emerging Local Plan, had as its principal intention, absolving the Airport Owner from having to undertake a sequential test.

GAL state that hotels on-airport serve a particular airport passenger need which they say is supported by an Airport Related Employment Land Study carried out by Lichfields on their behalf. That is not a sufficient reason to justify Gatwick Airport being afforded the same status as Crawley Town Centre, or even an edge of centre location, in the context of the sequential test. The general demise of retailing, including the hospitality industry within Crawley Town Centre cannot be disputed, and to this end the impetus in terms of

planning policy should be on encouraging the vitality and viability of Crawley Town Centre, as the primary objective<sup>1</sup>. Hotels and visitor accommodation are an important integral part of the functions of a town centre, which are not only available for airport passengers, but are used currently by airline staff, airline companies and those wishing to organise conferences and seminars.

It follows that many of the considerations as taken from the NPPF 2019, which it is said by GAL favour the removal of the sequential test in the provision of hotel accommodation on-airport, are equally if not more valid in justifying why Crawley Town Centre should be afforded greater importance than Gatwick Airport in the provision of hotel and visitor accommodation. The following factors taken from the NPPF 2019 advanced by GAL to justify its position concerning the need to plan positively to meet development needs or helping build a strong, responsive and competitive economy, are equally if not more relevant when considering hotel and visitor accommodation in Crawley Town Centre, through ensuring that sufficient land of

- The right type is available in the right places to support growth, innovation and productivity and coordinating the provision of infrastructure;
- Taking account of local business needs and wider opportunities for development (para 80)
- Recognising and addressing the specific requirements of different sectors (para 82)
- Addressing transport issues, including:
  - Ensuring patterns of movement are integral (para 102);
  - Actively managing patterns of growth, by focusing significant development on locations which are or can be made sustainable by limiting the need to travel (para 103)
  - Supporting an appropriate mix of uses across an area and within larger scale sites to minimise the number and length of journeys needed (para 104) and
  - Provide any large-scale transport facilities that need to be located in the area (including airports) and the infrastructure and wider development required to

support their operation, expansion and contribution to the wider economy (para 104 e).

It is otiose for GAL to state in their consultation response to Policy EC6 that they acknowledge the provisions of the NPPF which defines hotels as a town centre use, only to then argue that *“it is clear that hotels serving the Airport are more sustainable by being at the Airport.”*

It appears that the formulation of Policy EC7 has conflated on the one hand, issues of sustainability coupled with the preference that all airport related car parking should be provided within the boundaries of Gatwick Airport; and on the other, considerations the proper remit of the sequential test. If the sequential test is expected to be interpreted in the

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<sup>1</sup> A recent Centre For Cities Report reveals that Crawley along with London, Slough and Luton reliant on airports have been the hardest hit when looking at the cumulative increase in the number of people claiming unemployment benefits over the last 6 months due to the Covid-19 pandemic. Crawley represents one of the locations more affected than any other town, and as of September 2020 their rise in unemployment related claims was twice as large as that of the best performing cities in towns like York and Exeter.

same way as the issue of sustainability, there would be no need for the former as a policy instrument. Adopting this flawed reasoning results in added prominence being placed on hotel and visitor accommodation situated at Gatwick Airport, at the expense of sequentially preferential locations for the same form of development in Crawley Town Centre. In effect, Gatwick Airport is shown to take on enhanced significance in spite of the disadvantages associated with its out of centre location.

The logic behind this policy approach is counterintuitive. It is Crawley Town Centre which is expected to be the preferred location for hotel and visitor accommodation, based on the sequential test. It is the same location where a positive proactive approach on hotel and visitor accommodation should be the focus by the LPA in accordance with paragraph 85 of the NPPF 2019, as part of a wider aim of increasing its vitality and viability over the period of the emerging Local Plan. To highlight the illogical approach adopted in Policy EC7, the reader needs to look no further than the commentary to Option 3 in the SA/SEA of the earlier Regulation 19 version of Policy EC6 in which it was stated "*Off airport hotels in sustainable locations such as the town centre can accommodate guests using the airport, without the need for them to drive at all, thereby reducing the need to provide extensive areas of car parking.*" It is difficult to comprehend how, in a period of 12 months, this volte face on the part of your Authority can be justified.

An examination of the policies contained in the DCBLP 2021-2037 are all predicated on your Authority's aim of placing reliance on Gatwick Airport to provide for all future airport related car parking. The provisions of Policy EC7 have sought to place considerable weight on airport related car parking to the extent that it appears commensurate in terms of its significance with the sequential test, leading to perverse incentives. This becomes evident in that despite the fact that Crawley Town Centre is the preferred location for hotels and visitor accommodation when applying the sequential test, the provisions of Policy EC7 nevertheless seek to control parking at hotels in the town centre so that it is restricted to staff and guests in residence, preventing block parking or use of land within the confines of a hotel for off-airport car parking purposes.

This approach is unnecessarily restrictive and unwarranted for a number of reasons. Firstly, the introduction of an airport related car parking use at a town centre hotel constitutes a material change of use of land for which planning permission is required. Secondly, to place what in effect is an embargo on all forms of airport related car parking outside the boundaries of Gatwick Airport simply leads to the proliferation of unauthorised airport related car parking, often in unsustainable locations, operated by rogue traders, with all the ensuing bad publicity generated for the airport related car

parking industry. Thirdly, the Council are on record as stating that unauthorised long term airport related car parking will continue to be a source of capacity (supply) into the future. The pursuit of a strategy which perpetuates, at the same time places reliance on unauthorised airport related car parking, in preference to properly managing airport related car parking associated with hotel and visitor accommodation in Town Centre locations, is the very antithesis of "*managing*" the provision of hotel and visitor accommodation into the future.

The amended approach now reflected in Policy EC7 is a prime example of how the subject

of airport car parking has permeated through different policies in the emerging Local Plan, promulgated by what appears to be the need to avoid at all costs any potential conflict with Gatwick Airport. The contents of Policy EC7 reveals an unhealthy dependency on GAL by the Council in the provision of both hotels and visitor accommodation, in addition to airport related car parking. This is a matter which becomes clear from the chosen Option 2 in the latest iteration of the SA/SEA concerning Policy EC7, viz:

*“Further, for consistency with GAT3, it is important that airport-related parking is not allowed at off-airport hotels or locations, and is only allowed at on-airport hotels where justified by a demonstrable need in the context of proposals for achieving a sustainable approach to surface transport access to the airport. This matter is addressed through GAT3 but it is considered that a dedicated hotel and visitor accommodation policy adds further clarity.”*

The fact that it is necessary for hotel and visitor accommodation proposed within Gatwick Airport boundary to demonstrate that the development will not have a detrimental impact on the long term ability of the airport to meet its operational land and floorspace requirements as it grows, is no substitute for having to satisfy the sequential test.

In this regard, hotel development, irrespective of the location, should not only meet the sequential test, but in accordance with paragraph 90 of the NPPF 2019, the adverse impact test<sup>2</sup> as well. Neither of these tests can be realistically divorced from considerations relating to demonstrable need.

There is an absence of any defining criteria comprising part of the reasoned justification to Policy EC7 which sets out in any detail how the demonstrable need test is expected to be assessed, when faced with applications for hotel and visitor accommodation within the boundaries of Gatwick Airport. It is the writer’s view that given the relationship between demonstrable need and the sequential and impact tests, the former should be assessed in accordance with the provisions of paragraph 015 Ref ID: 2B-015-20190722 of the NPPG where it concerns *“Town Centres and Retail”*.

In this way, demonstrable need seen in terms of on-airport hotel and visitor accommodation, is required to be assessed in the context of i) the scale of existing provisions and future proposals in Crawley Town Centre; ii) the existing viability and vitality of Crawley Town Centre; iii) the cumulative effects of recent on-airport hotel and visitor accommodation on Crawley Town Centre, and whether it is vulnerable seen in the

light of future on-airport hotel and visitor accommodation; iv) the likely effects of any on-airport hotel development and visitor accommodation on any town centre strategy, and resultant impact on any other planned investment in Crawley Town Centre. This impact should be on a like-for-like basis relating to the particular form of hotel accommodation provided, i.e. whether it is budget class hotel, or designed to meet a particular segment of the market.

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<sup>2</sup> Court of Appeal decision *Warners Retail (Moreton) Ltd v Cotswold DC (2016) EWCA Civ 606* and *Aldergate Properties Ltd v Mansfield DC (2016) EWHC 1670 (Admin)*

This is important in that in the absence of any reasoned justification relating to Policy EC7, there is a likelihood that on-airport hotel and visitor accommodation will be based on the views expressed by GAL, who will then be seen to act as both judge and jury in the determination of any planning application relating to the same form of development. The way that Policy EC7 is currently worded has the propensity to elevate private sector interests, i.e. those of GAL, as being more relevant than land use planning considerations surrounding the development of hotel and visitor accommodation. Furthermore, it has the prospects of distorting the delivery of competing hotel and visitor accommodation from occupying more sequentially compliant locations in place of sub-optimal locations on-airport, a matter of some significance given the disastrous consequences affecting Crawley Town Centres' hospitality sector resulting from the Covid-19 pandemic.

A distinction should be drawn between airport related car parking and hotel accommodation where they concern land within the boundaries of Gatwick Airport. It is recognised that the airport owner and operator enjoy "*permitted development rights*" in accordance with Schedule 2 Part 8 Class F of the Town & Country Planning (General Permitted Development) (England) Order 2015 (As Amended). However, this does not extend to hotel accommodation. The phrase "*operational building*" is defined in Schedule 2 Part 8 Class O as meaning "*a building, other than a hotel required in connection with the movement or maintenance of aircraft, or with the embarking, disembarking, loading, discharge, or transport of passengers, livestock or goods at a relevant airport*".

In short, hotels and visitor accommodation do not benefit from "*permitted development rights*" where they relate to the same development on-airport, reinforcing a central issue raised in these representations, namely the need for consistency between the sequential and adverse impact tests on the one hand, and the demonstrable needs test on the other, a factor which it is contended should form the central thrust of Policy EC7. It is only by complying with all of these tests individually, that adverse consequences can be avoided surrounding the priority which should be given to meeting such accommodation in Crawley Town Centre.

Yours faithfully

Tim North

T.F. North

Cc: HX Properties Ltd

*If required, please continue your response on an additional piece of paper and securely attach it to this response*

**7. Please set out what modification(s) you consider necessary to resolve the issues you**

have identified above. You need to state why this modification will make the Local Plan legally compliant or sound. It would be helpful if you are able to suggest how the wording of any policy or text should be revised. Please be as clear as possible. Any non-compliance with the duty to co-operate is incapable of modification at examination.

Gatwick Airport should not be afforded the same status in terms of the sequential and impacts test as Crawley Town Centre. There is no logic in preventing airport-related car parking at hotels within Crawley Town Centre at a time when there has been a demise in retailing including the hospitality industry within Crawley Town Centre. The aim should be to encourage the vitality and viability of Crawley Town Centre as the primary objective when considering hotel and visitor accommodation. On-airport hotel and visitor accommodation should be required to justify a demonstrable need which is required to be assessed in the context of i) the scale of existing provision and future proposals in Crawley Town Centre; ii) existing viability and vitality of Crawley Town Centre; iii) the cumulative effects of recent on-airport hotel and visitor accommodation on Crawley Town Centre, and whether the town centre it is vulnerable seen in the light of future on-airport hotel and visitor accommodation; iv) the likely effects of any future on-airport hotel and visitor accommodation on any Town Centre strategy, and resultant impact on any other planned investment in Crawley Town Centre. This impact should be provided on a like-for-like basis relating to the particular form of hotel accommodation provided, i.e. whether it is a budget class hotel or designed to meet a particular segment of the market.

*If required, please continue your response on an additional piece of paper and securely attach it to this response*

*Your representation should cover succinctly all the information, evidence and supporting information necessary to support/justify the representation and the suggested modification, as there will not normally be a subsequent opportunity to make further representations. **After this stage, further submissions will only be at the request of the Inspector, based on the matters and issues s/he identifies for examination.***

**8. If your representation is seeking a modification, do you consider it necessary to participate in the public examination hearings? (Please tick)**

No, I do not wish to participate in the examination hearings

Yes, I wish to participate in the examination hearings

**9. If you wish to participate in the public examination hearings, please outline why you consider this to be necessary:**

It is important that Gatwick Airport is not afforded preferential status in hotel and visitor accommodation, at the expense of improving the attractiveness, vitality and viability of Crawley Town Centre, particularly as hotel accommodation on-airport, as distinct from airport related car parking does not enjoy permitted development rights.

*The Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate at the public examination.*

If you would like to make a representation on another policy or part of the Local Plan then please complete a separate PART B section of the form or securely attach an additional piece of paper. Copies of the representation form can also be downloaded from the council's website at: [www.crawley.gov.uk/localplanreview](http://www.crawley.gov.uk/localplanreview)

**Signature**

**Date**



## PART B – Your representation

### 3. Please tick the document that you would like to make a representation on:

- Crawley submission Local Plan
- Crawley submission Local Plan Map
- Crawley submission Sustainability Appraisal
- Habitats Regulation Assessment Screening Report

### 4. Which part of the Local Plan does this representation relate to?

Paragraph:

Policy:

GAT3 along with paragraphs 10.24 to 10.27 inclusive

Other:

### 5. Do you consider the Local Plan to be: (Please tick)

- 5.1. Legally compliant? Yes  No
- 5.2. Sound? Yes  No
- 5.3. Compliant with the duty to co-operate? Yes  No

### 6. Please give details explaining your response to 5.1, 5.2, or 5.3 below. Please be as clear as possible.

See attached correspondence dated 18 February 2021

Dear Sirs

#### **Draft Crawley Borough Local Plan 2021-2037 January 2021 Regulation 19 Consultation**

This company raised an objection on behalf of my clients, HX Properties Ltd, to Policy GAT2 of the Regulation 19 version of the Draft Crawley Borough Local Plan 2020-2035, along with paragraphs 10.16 to 10.19 inclusive, providing the reasoned justification behind the same policy.

Policy GAT3 concerned with " Gatwick Airport Related Parking" found in the latest Regulation 19 version of the Draft Crawley Borough Local Plan 2021-2037 (hereinafter referred to as DCBLP 2021-2037) reflects the previous version of the same policy, but with

less force as the word “*must*” has been omitted before the phrase “*be justified demonstrable need in the context of proposals for achieving a sustainable approach to surface transport access to the airport*”. The two limbs comprising Policy GAT3 have now been separated, where previously they formed a single paragraph.

My clients object to Policy GAT3 along with paragraphs 10.24 to 10.27 forming part of the reasoned justification behind the same policy, on the grounds that they have not been positively prepared, neither are they justified, nor are they consistent with national policy.

The reasoned justification behind Policy GAT3 is fundamentally flawed, in that it takes no account of and is inconsistent with, the provisions of Schedule 2 Part 8 Class F of the Town & Country Planning (General Permitted Development) (England) Order 2015 (As Amended). The Airport Owner on “*Operational Land*” can construct surface car parking or build multi-storey car parks in accordance with the above mentioned “*permitted development rights*”, for which no express planning permission is required, and more importantly, without having to justify “*...a demonstrable need in the context of proposals for achieving a sustainable approach to surface transport access to the airport*”. This situation applies, irrespective of whether the word “*must*” is to be inserted before the phrase “*be justified*”.

There is no disputing these facts. What it means is that Policy GAT3 as set out in the DCBLP 2021-2037 is completely unnecessary and serves no valid purpose, nullifying the reasoned justification set out in paragraphs 10.24 to 10.27 inclusive of the same version of the emerging Local Plan. There is no requirement for GAL to justify any form of airport-

related car parking on operational land within its boundary, and equally no requirement to provide a demonstrable need in the context of achieving a sustainable approach to surface transport access to the airport. Put simply, “*permitted development rights*” do not require a demonstrable need to be met.

The fact that the Airport Operator is under no obligation to produce an assessment of demonstrable need to justify any on-airport surface or multi-storey car park on land forming part of its operational area, in accordance with the second limb of Policy GAT3, becomes immediately apparent from the decision taken by your Council to raise no objection to Application No. CR/2017/0523/CON.

It is a well-known fact that Crawley Borough Council rely on GAL to support the central issue of “*demonstrable need*” on applications refused by your authority for long term off-airport car parking in its administrative area. The involvement of GAL means that, by association, it occupies a central position in the decision-making process, particularly in cases where an applicant proceeds to appeal against the Local Planning Authority’s refusal or non-determination of a long term off-airport car parking proposal. However, that is not a justifiable reason for incorporating a policy into the emerging Local Plan concerning a form of development in which your Authority have no control.

GAL as a private company, enjoys a dominant position in surface access facilities provided at Gatwick Airport, being present in the upstream market (i.e. facilities at an airport, such

as bus stations or car parks), as well as the downstream market (i.e. allowing providers to access the facilities at an airport), where they relate to surface access provision. GAL's presence as an important integral part in the decision-making process, means that land use planning decisions governing airport related car parking proposals cannot be considered to be transparent. That is, they cannot be divorced from, and understandably are influenced by, private sector decisions promoted through GAL's own Capital Investment Programmes.

The insertion of Policy GAT3 into the Regulation 19 version of the DCBLP 2021-2037, where it is not necessary to do so for the reasons stated above, leads on to the question of whether its provisions unnecessarily restrict competition in respect of certain forms of long term off-airport car parking, in particular the "*park and ride*" model, which dependent on the selected location, is equally well placed to achieve a sustainable approach to surface transport access to the airport.

Paragraph 14 of the NPPF 2019 states that for plan-making - "*plans should positively seek opportunities to meet the development needs of their area, and be sufficiently flexible to adapt to change*" (my emphasis). Policy GAT3 fails to achieve the sufficient flexibility sought by national policy, despite the fact that the location of Gatwick Airport is not included in one of the selected areas which provide a strong reason for restricting development in Footnote 2 of the same paragraph of current national policy.

It follows from these representations that if Policy GAT3 is to be retained in the Regulation 19 version of the DCBLP 2021-2037, then consideration should be given to removing "*permitted development rights*" through an Article 4 Direction, where it relates to on-airport car parking provision on "*Operational Land*" within Gatwick Airport. The Article 4 Direction process will then provide the purpose behind the same policy and its

reasoned justification, allowing for more transparent decision-making, if only for reasons of having to justify a demonstrable need.

This is not considered to be an unreasonable request in that GAL in its own representations to the earlier Regulation 19 version of the DCGLP 2020-2035, when considering the use of existing employment sites in the Borough which it states could be used more efficiently by means of intensification, redevelopment and design improvements, add:-

*"It is crucial that the Council uses Article 4 Directions to prevent the further loss of employment sites to residential development via Permitted Development Rights. The Council has continued to lose valuable employment sites due to the conversion of office buildings to residential accommodation via the prior approval process, and the draft Plan should proactively seek means to restrict such loss of its existing employment land stock."*

A methodology should be agreed in which to assess long term demand and capacity issues concerning both on and off airport-related car parking provision, involving your Authority,

GAL and representatives of those involved in lawful long term off-airport car parking facilities. This will reduce issues of dispute, or at least highlight those specific areas where agreement cannot be reached, surrounding existing and future demand for and capacity (supply) of airport related car parking, according to the concept that the same two factors are “*in balance*” as argued by GAL. To this end, through collaboration, a sound base for deciding applications will be provided, not dissimilar to the way in which the NPPF requests Local Planning Authorities to use the standard methodology in order to establish a minimum local housing needs figure (LHN) in their administrative areas.

The contents of supporting paragraph 10.24 to Policy GAT3 refer to the 2019 Section 106 Planning Obligation entered into between Crawley Borough Council, West Sussex County Council and GAL, which sets out an obligation for the Airport Operator to achieve a target of 48% of passengers travelling to the airport by public transport by 2022. The figure of 48% is used as a metric to show that the amount of airport related car parking that needs to be provided for airport passenger throughput, in accordance with the Airport Operators Interim Car Parking Strategy April 2017, is in some way commensurate with public transport modal share. The 48% figure is not considered to be a challenging target, in that in the fourth quarter of 2017, (October to December), CAA’s O & D data reveals that a public transport modal share figure of 48.3% was reached, being in excess of the 48% target figure set down for 2022.<sup>3</sup>

No evidence has been produced to demonstrate that long term off-airport car parking has prevented the modal share in favour of public transport from being reached, as set out in the various iterations of the Gatwick Airport Surface Access Strategy (hereinafter referred to as GASAS) and associated Section 106 Planning Obligations. The target figure of 48% is in all probability likely to be met, even in the event that the figure were to be increased, when it is realised that visitors to the UK are always more likely to use public transport than those living and working in the UK.

The contents of paragraph 10.25 providing part of the reasoned justification to Policy GAT3 refer to a number of lawful long term off-airport car parking businesses, serving the needs of passengers using Gatwick Airport. The figure for long term off-airport car parking spaces set out at paragraph 2.3.30 of the Gatwick Airport Masterplan 2019, namely 21,196 authorised spaces is strongly disputed. There has been a consistent and marked reduction in the supply of long term off-airport car parking provision serving the airport, since the Gatwick Airport Interim Master Plan was published in 2006.

Long term off airport car parking provides an important contribution to airport related car parking, meaning that it has a role to play in the supply of the same product, meeting not only a quantitative, but also a qualitative requirement. A number of long term off airport car parks have been found to occupy “*sustainable locations*” whilst at the same time offering “*customer choice*”<sup>4</sup>. This becomes evident from Inspectors’ appeal decisions in

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<sup>3</sup> See the evidence of Mr Tom Nutt, Crawley BC to the Former Gasholder Station Car Park Appeal, the inquiry of which took place on 15-17 May 2017.

<sup>4</sup> See appeal decisions at Acacia Grove, Copthorne (PINS Ref 2153589); City Place, Crawley (PINS Ref 2171971 & 2071972); and the Case Officer’s report at Southways Business Park (Crawley BC Ref. No. CR/2033/0094/FUL); Site

your Council's administrative area, as well as the contents of Case Officers' reports granting planning permission for the same use.

A more flexible approach is required in the consideration of airport related car parking provision, given that issues of sustainability, when taken to an extreme as is the case with Policy GAT3, results in locations being defined solely by reference to whether a site lies within or outside the boundary of Gatwick Airport. That approach produces an anomalous situation, in that were your Council to accept an alteration to the boundaries of Gatwick Airport, so that it is commensurate with that indicated on Plan 20 in the Gatwick Masterplan 2019, (i.e. leading to an extension to the east beyond the London to Brighton Railway Line towards the M23 Motorway); what is at present considered to be an unsustainable location, would automatically become sustainable.

In devising a policy devoted to "*Gatwick Airport Related Parking*", requires sustainability issues to extend beyond consideration of whether a site is situated within or outside the boundaries of Gatwick Airport. A restrictive policy of the kind set out in GAT3 has adverse implications, with associated disadvantages for airport related car parking, with inadequate account taken of other related issues surrounding airport car parking provision, significant amongst which is unauthorised provision found in adjoining Authorities' administrative areas, some distance from the airport.

Indeed, Policy GAT3 takes no account of i) access arrangements from the particular car park whether on or off airport to the terminal buildings; or ii) the advantages of transporting a number of passengers to the Airport's terminals utilising low emissions/eco-friendly buses. These benefits associated with a traditional park and ride off-airport parking facility have the ability to lead to a reduction in traffic movements, thereby alleviating congestion at strategically located junctions situated in close proximity to Gatwick Airport, at the same time having the propensity to reduce carbon emissions on-airport.

It is said in GAL's representations to the July 2019 version of the DCBLP that the aim is to offer an attractive on airport car parking product as a means of discouraging use of less

sustainable car parking options, which double the amount of car trips, whilst generating extra surface access journeys, which it is argued, add to congestion and CO<sub>2</sub> emissions compared with "*park and fly*". These comments are wholly predicated on the "*kiss and fly*" and "*meet and greet*" car parking modes serving Gatwick Airport, which are the least sustainable. They take no account of traditional long term park and ride facilities, which are infinitely more sustainable than encouraging passengers to park on-airport. To the extent that GAL refer to a "*residual and increasing demand for parking for those passengers who choose to use the car*" dictates that the long term off-airport "*park and ride*" model has the ability to be the most sustainable option after dependence on public transport. Their importance will no doubt increase as electric vehicles become increasingly popular.

It is a known fact that unless additional resources are provided to the Authority, and a proactive approach is taken to enforcement proceedings in respect of unlawful off-airport car parking uses, the ability to ensure a sustainable approach to airport related car parking will never be realised. Your Authority are on record as stating that unauthorised long term airport related car parking will continue to be a source of capacity (supply) into the future. Given these circumstances, to pursue a strategy which perpetuates, at the same time places reliance on unauthorised long term off-airport car parking, in preference to a properly managed lawful long term off-airport car parking facility, is the very antithesis of "*managing*" airport related car parking provision into the future.

Evidence reveals that adopting the tact outlined in the previous paragraph will encourage long term off-airport car parking facilities of all models, in least sustainable locations seen in terms of distance to the north and south terminals, and is required to be compared with what otherwise may arise from lawful long term off-airport park and ride facilities which from a locational perspective, are sited in close proximity to the same terminals. It is also infinitely more sustainable to have sites granted planning permission, than for long term off-airport car parking facilities to be made lawful through CLEUDs.

To impose an embargo on lawful long term off-airport car parking uses based on the park and ride model, would simply play into the hands of those unauthorised long term off-airport car parking businesses operated by rogue traders, with all the ensuing bad publicity for airport related car parking. It simply hands the impetus to those seeking CLEUDs for long term off-airport car parking uses on sites distant from the airport, catering for the "*meet and greet*" mode, which is the least desirable from a transport sustainability perspective.

Policy GAT3 pays no regard to the increasing provision of organisations such as JustPark, a technological platform matching drivers with car parking spaces through its website and app, representing what is referred to as the "*sharing economy*", having a profound impact on the ability to reduce the private car mode in favour of public transport, and appearing less sustainable than the provision of a traditional long-term off-airport car parking facility. To these considerations can also be added the increasing focus placed on the use of on-street car parking, sometimes known as transit parking, in residential areas, before walking or taking a cab to the airport's terminals.

In conclusion, Policy GAT3 represents an abrogation of the responsibilities concerning the topic of airport related car parking from the Local Planning Authority to a private company, namely the Owner/Operator of Gatwick Airport, who is then passed the remit of meeting the modal split target of passengers, through total reliance placed on

on-airport related car parking, without assessing alternative forms of access by private car to the same international airport. There are forms of long term off-airport car parking use which are in a position to contribute to sustainable transport through the provision of a public transport levy, in the same way a GAL provides for those travellers who have no alternative but to rely on the private car to access Gatwick Airport.

Yours faithfully

Tim North

T.F. North

Cc: Howard Dove, HX Properties Ltd

*If required, please continue your response on an additional piece of paper and securely attach it to this response*

7. **Please set out what modification(s) you consider necessary to resolve the issues you have identified above. You need to state why this modification will make the Local Plan legally compliant or sound. It would be helpful if you are able to suggest how the wording of any policy or text should be revised. Please be as clear as possible. Any non-compliance with the duty to co-operate is incapable of modification at examination.**

Policy GAT3 along with paragraphs 10.24 to 10.27 has not been positively prepared, neither is it justified, nor is it consistent with national policy. The reasoned justification behind Policy GAT3 is fundamentally flawed in that it takes no account of, and is inconsistent with, the provisions of Schedule 2 Part 8 Class F of the Town & Country Planning (General Permitted Development) (England) Order 2015 (As Amended) as the Airport Owner can construct surface car parking or build multi-storey car parks on "Operational Land" for which no planning permission is required, and more importantly, without having to justify "... a demonstrable need in the context of proposals for achieving a sustainable approach to surface transport access to the airport". This situation applies irrespective of whether the word "must" is to be inserted before the phrase "be justified". Hence Policy GAT3 is completely unnecessary; serves no valid purpose, nullifying the reasoned justification set out in paragraphs 10.24 to 10.27 inclusive.

*If required, please continue your response on an additional piece of paper and securely attach it to this response*

*Your representation should cover succinctly all the information, evidence and supporting information necessary to support/justify the representation and the suggested modification, as there will not normally be a subsequent opportunity to make further representations. **After this stage, further submissions will only be at the request of the Inspector, based on the matters and issues s/he identifies for examination.***

8. **If your representation is seeking a modification, do you consider it necessary to participate in the public examination hearings? (Please tick)**

No, I do not wish to participate in the examination hearings

Yes, I wish to participate in the examination hearings

9. **If you wish to participate in the public examination hearings, please outline why you consider this to be necessary:**

It is important not to include policies in a Local Plan which are unnecessary and serve no valid purpose, whilst "plans should positively seek opportunities to meet the development needs of their area, and be sufficiently flexible to adapt to change." No evidence has been produced to demonstrate that long term off-airport car parking has prevented the modal share in favour of public transport from being reached, as set out in the various iterations of the Gatwick Airport Surface Access Strategy. The contents of paragraph 10.25 providing part of the reasoned justification to Policy GAT3 refers to a number of lawful long term off-airport car parking businesses serving the needs of passengers using Gatwick Airport. The figure of 21,196 authorised spaces is disputed and there has been a consistent and marked reduction in the

supply of lawful long term off-airport car parking provision serving the Airport since the Gatwick Airport Interim Master Plan was published in 2006. A number of long term off-airport car parks have been found to occupy sustainable locations offering customer choice, and the benefits associated with traditional park and ride off-airport parking facilities have not been properly considered.

*The Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate at the public examination.*

If you would like to make a representation on another policy or part of the Local Plan then please complete a separate PART B section of the form or securely attach an additional piece of paper. Copies of the representation form can also be downloaded from the council's website at: [www.crawley.gov.uk/localplanreview](http://www.crawley.gov.uk/localplanreview)

#### Signature

Mr. Tim North of Tim North & Associates Ltd

#### Date

05/03/2021

## PART B – Your representation

### 3. Please tick the document that you would like to make a representation on:

- Crawley submission Local Plan
- Crawley submission Local Plan Map
- Crawley submission Sustainability Appraisal
- Habitats Regulation Assessment Screening Report

### 4. Which part of the Local Plan does this representation relate to?

Paragraph:

Policy:

Other:

### 5. Do you consider the Local Plan to be: (Please tick)

- 5.1. Legally compliant? Yes  No
- 5.2. Sound? Yes  No
- 5.3. Compliant with the duty to co-operate? Yes  No

### 6. Please give details explaining your response to 5.1, 5.2, or 5.3 below. Please be as clear as possible.

See attached correspondence dated 18 February 2021  
Dear Sirs



## Draft Crawley Borough Local Plan Review 2021-2037 – Regulation 19 Consultation

My clients, HX Properties Ltd, object to the assessment carried out in the Sustainability Appraisal/Strategic Environmental Assessment (hereinafter referred to as SA/SEA) dated January 2021 accompanying the latest Regulation 19 Version of the Draft Crawley Borough Local Plan 2021-2037 (hereinafter referred to as the DCBLP 2021-2037), where it relates to Policy GAT3. It is contended that the SA/SEA is deficient, inadequate and unsound where the appraisal concerns Policy GAT3.

There is a duty to carry out a legally adequate SA/SEA in order to comply with the EU Strategic Environmental Assessment Directive 2001/42. The SA/SEA must consider Policy GAT3 and “reasonable alternatives” to it, with the provisions of Article 5 of the Directive having been transposed into UK law through the Environmental (Assessment of Plans and Programmes) Regulations 2004. Regulation 12 is particularly relevant, being concerned with the preparation of an environmental report.

It is contended that the assessment of the amended “reasonable alternatives” to Policy GAT3 is defective, representing a fundamental flaw which extends to the soundness of the process. There is no obligation, as far as the law is concerned, to choose the most sustainable option, or the most sustainable of two policy options, since the requirements of the appraisal are entirely procedural [*R (on the application of Friends of the Earth) v The Welsh Ministers (2015) EWHC 776 (Admin)*] {12} and {75}. Sound reasons must, however, be given for the rejection of “reasonable alternatives” so that consultees are able to know what those reasons are. (*Save Historic Newmarket Community v Forest Heath District Council (2011) EHC 606*).

It is appreciated that the SA/SEA is an iterative process, and therefore it is relevant to consider how your Authority has arrived at the two “reasonable alternatives” relating to the latest version of the SA/SEA concerning the subject of “Gatwick Airport Related Car Parking”.

In the case of the earlier Regulation 19 version of the DCBLP 20210-2035, two alternative policy scenarios were considered: Option 1 being to provide additional car parking within the airport boundary; and Option 2 to allow car parking in other areas. These were

precisely the same two policy options that were considered in the SA/SEA dated December 2015, relating to equivalent Policy GAT3 in the statutorily adopted Crawley Borough Local Plan 2015-2030.

The SA/SEA as part of the statutorily adopted Crawley Borough Local Plan 2015-2030 considered both policy options against ten Sustainability Objectives. Sustainability Objectives 1 to 8 inclusive set out in the SA/SEA dated December 2015 are precisely the same as the Sustainability Objectives against which Policy GAT2 of the earlier Regulation 19 version of the DCBLP 2020-2035 were assessed. Sustainability Objectives 9 and 10 where they relate to the SA/SEA dated December 2015 concerning the adopted Local Plan were

amalgamated to produce one Sustainability Objective 9 in the SA/SEA Regulation 19 version of the DCBLP 2020-2035.

In effect, what were previously Sustainability Objectives 9 and 10 namely *“To promote active cohesive and socially sustainable communities”* and *“To ensure everyone has the opportunity to participate in sport and to encourage active, healthy and independent lifestyles”* respectively, were amalgamated into a single Sustainability Objective 9 where it formed part of the SA/SEA Regulation 19 version of the DCBLP 2020-2035, viz: *“To ensure healthy, active, cohesive and socially sustainable communities. To ensure all benefit from a good quality of life., To ensure everyone has the opportunity to participate in sport and to encourage active lifestyles.”*

It follows that the SA/SEA methodology had not materially changed between that relied upon in the adopted Crawley Borough Local Plan 2015-2030 where it relates to Policy GAT3, and that which forms the basis to the earlier Regulation 19 version of the DCBLP 2020-3035 concerning equivalent Policy GAT2. This being the case, and given that the two policy options in the two earlier SA/SEAs were virtually identical; no reasoned justification was advanced as to why the scores in respect of the two SA/SEAs relating to Policies GAT3 and GAT2 respectively had changed.

The two *“reasonable alternatives”* in the SA/SEA dated January 2021 relating to Policy GAT3 *“Gatwick Airport Related Car Parking”* comprising part of the latest Regulation 19 version of the DCBLP 2021-2037 are fundamentally different from the earlier SA/SEA January 2020 where it related to the same policy. Option 1 is now concerned with the provision of additional or replacement airport-related car parking which is only to be permitted where it is (i) located within the airport boundary; (ii) it is justified by a demonstrable need in the context of proposals for achieving a sustainable approach to surface transport access to the airport within the airport boundary. Option 2 provides for additional or replacement airport related car parking within the airport boundary and at locations outside the airport boundary provided it is justified by a demonstrable need.

The scores against the 9 Sustainability Objectives are very similar, with Option 2 scoring double minuses in respect of minimising climate change; adapting to climate change and promoting sustainable journeys, compared with Option 1 where a single minus is scored. It is therefore necessary to consider how these different scores have been derived in the evaluation process.

It is necessary at the outset to record that both *“reasonable alternatives”* seek to provide airport related car parking within the boundary of Gatwick Airport, with Option 2 also allowing for locations outside the airport boundary. Crucially, both options irrespective of

their location, are only considered acceptable where they are justified by a demonstrable need.

My clients do not object to the fact that long term off-airport car parking proposals are required to show a demonstrable need, in the same way as on-airport car parking proposals, although for reasons stated in the representations to GAT3 as set out in DCBLP

2021-2037, there is no justification why GAL should have to provide a demonstrable need, having regard to “permitted development rights” available to the airport owner.

The alteration in the two options in the SA/SEA January 2021 version compared with the earlier SA/SEA of January 2020, are now expressed in a similar way to what was previously Policy GAT8 set out in the formerly adopted Crawley Borough Local Plan 2000, where the limitation was expressed in the following terms:-

*“The Borough Council will only permit proposals for airport-related car parking on off-airport sites where they do not conflict with countryside policies and can be justified by a demonstrable need in the context of proposals for achieving a more sustainable approach to surface transport access to the airport.”*

With both “reasonable alternatives” now required to show a demonstrable need, means that in terms of a long term off-airport car parking proposal, an applicant is required to show that existing and future demand for, and capacity (supply) of, on-airport related car parking is not or will not be met. A demonstrable need for a long term off-airport car parking proposal will not be proven in a situation where the provision of available car parking spaces on-airport seen in the context of future on-airport related car parking capacity can be achieved. In effect, if these two factors are “in balance” adopting the term applied by GAL, planning permission will not be granted for a long term off-airport car parking use.

The commentary to Option 2 in the SA/SEA January 2021 provides the underlying justification for the difference in the scoring concerning Sustainability Objectives, 1, 2 and 7 between the two “reasonable alternatives”. It is said “An approach that allows airport-related parking in off-airport locations is likely to encourage users to access Gatwick Airport by car and will increase the number of trips and distance travelled by the vehicle and passenger travelling between the car park and the terminals.”

In a situation where planning permission is granted for a long term off-airport parking proposal based on a demonstrable need having been proven, means that the decision reached would not have been based on a choice between on- and off-airport car parking locations; but between managing long-term off-airport car parking in a location close to Gatwick Airport, where the only other realistic alternative is unmanaged, unauthorised airport related car parking occurring, more likely than not, at a distance further from Gatwick Airport than the site for which planning permission is being granted for the long term car parking use.

This must be the case as this scenario arises because the demand for, and capacity of, on-airport related car parking, is not “in balance”, i.e. planning permission would have been forthcoming for the long term off airport use based on a demonstrable need, as on-airport car parking demand either does not or will not will not meet anticipated on-airport supply at Gatwick Airport.

For similar reasons, the commentary relating to Option 2 is flawed where it states “... the

*approach would also undermine the ability of the airport operator to meet obligations set out in the S106 legal agreement, including the requirement to provide 'sufficient but no more on-airport car parking spaces than necessary to achieve a combined on and off-airport supply that is proportionate to 48% of non-transfer passengers choosing to use public transport for their journeys to and from the airport by 2022'."*

Aside from the fact that 48% is not a challenging target, the Council's approach in this regard may have been considered appropriate in circumstances where Option 2 was based on the same "*reasonable alternative*" as set out in the earlier SA/SEA January 2020 comprising part of the DCBLP 2020-2035, concerning Policy GAT2, namely "*to allow car parking in other areas*".

The fundamental difference between the Option 2 where it formed part of the DCBLP 2020-2035 and that comprising part of the DCBLP 2021-2037 is the requirement to show a demonstrable need. The fact that a demonstrable need is necessary means that the comment raised in this paragraph has no validity, if only because in this scenario, GAL's on airport car parking demand either does not or will not meet on-airport car parking supply.

This justification is further flawed because there is no reason why in circumstances where a long term off-airport car parking site is granted planning permission based on demonstrable need being shown to exist, that a contribution in terms of a public transport levy should not be applied to meet the obligations in the Section 106 Legal Agreement.

Similarly, there is no evidence to justify the assertion that "*the provision of airport-related parking in off-airport locations can detract from biodiversity and landscaping, frequently requiring hardstanding and lighting and places pressure on land which could be more beneficially used for other purposes.*" The opportunity to provide effective landscaping and contributing to net gains in biodiversity are equally if not more likely to be achieved in a long term off-airport car parking location where the land is less constrained in terms of available space than it is on Gatwick Airport. Both on- and off-airport parking provision require hardstanding and lighting, whilst the proposition that the land could be more beneficially used for other purposes is equally applicable to circumstances on-airport given the variety of activities associated with an international airport, than it is to a site where the aim is to provide for a long term off-airport use.

It follows that the underlying reasoning provided by the LPA why they consider Option 2 to be less sustainable than the approach in Option 1 is unsound and hence unlawful. It has failed to appreciate that Option 2 is not simply "*to allow car parking in other areas*" as was the case with the previous iteration of the SA/SEA, but in this case it is "*to provide additional or replacement airport related car parking within the airport boundary and at locations outside the airport boundary provided it is justified by demonstrable need.*"

The commentary to Option 2 concerning Policy GAT3 in the DCBLP 2021-2037 also refers to the High Court challenge in which my clients sought to quash Policy GAT3 set out in the Crawley Borough Local Plan 2015-2030. This is prayed-in-aid to justify the comments for discounting Option 2 as a "*reasonable alternative*" in the DCBLP 2021-2037, even though Holiday Extras Limited did not seek to raise any representations to the SA/SEA where it

was directed to Policy GAT3 found in the earlier Crawley Borough Local Plan 2015-2030.

The SA/SEA accompanying the adopted Crawley Borough Local Plan 2015-2030 contained no "reasonable alternative" commensurate with that now set out in Option 2 of the DCBLP 2021-2037. To this end, Option 2 found in the SA/SEA accompanying the adopted Crawley Borough Local Plan 2015-2030 is materially different from Option 2 set out in the DCBLP 2021-2037, despite the fact that the Local Plan Inspector did not preclude the possibility of planning permission being granted for long term off-airport car parking if it could be shown that material considerations justified going against the provisions of the same Plan. In effect, the requirement to show a demonstrable need is akin to a material consideration dictating circumstances where a long term off-airport car parking proposal would be acceptable.

The current iteration of Option 2 in the SA/SEA provides an opportunity to prioritise those forms of long term off-airport car parking facilities which are the most sustainable seen from a transport perspective. Clear differences arise between the "meet and greet" model and the "park and ride" form of long term off-airport car parking, with the latter offering distinct benefits in terms of reduced numbers of trips by passengers accessing the airport; congestion on the road network leading to Gatwick Airport, and the accumulation of CO<sub>2</sub> emissions on-airport. These are factors which have not been explored as part of any assessment of "reasonable alternatives" in the SA/SEA relating to Policy GAT3.

Yours faithfully

Tim North

T. F. North

Cc: HX Properties Ltd

*If required, please continue your response on an additional piece of paper and securely attach it to this response*

- 7. Please set out what modification(s) you consider necessary to resolve the issues you have identified above. You need to state why this modification will make the Local Plan legally compliant or sound. It would be helpful if you are able to suggest how the wording of any policy or text should be revised. Please be as clear as possible. Any non-compliance with the duty to co-operate is incapable of modification at examination.**

The SA/SEA where it concerns Policy GAT3 is defective and has not properly assessed "reasonable alternatives". Both "reasonable alternatives" seek to provide airport related car parking within the boundary of Gatwick Airport, with Option 2 allowing for locations outside the airport boundary. Both options critically are only considered exceptional where they are justified by demonstrable need, There is no justification why GAL should have to provide a demonstrable need, having regard to "permitted development rights" available to the Airport Owner.

In a situation where planning permission is sought for a long term off-airport car parking proposal, it can only be based on a demonstrable need being proven. This means that in terms of the long term off-airport car parking proposal an applicant is required to show that existing and future demand for, and capacity (supply) of, on-airport related car parking is not, or will not be met. The choice in these circumstances between on- and off-airport parking provision is between managing long term car parking in a location close to Gatwick Airport, or allowing for unmanaged, unauthorised airport related car parking to occur, more likely than not at a distance further from Gatwick Airport than the site for which planning permission is being sought for a long term off-airport car parking use.

The commentary relating to Option 2 is completely flawed given the fact that a long term off-airport car parking use would have to show a demonstrable need. There has been a fundamental change between the two options in the submission Version of the DCBLP 2021-2037 and the earlier Regulation 19 version of the DCBLP 2020-2035, although this does not appear to have been appreciated in drafting the commentary to Option 2 in the latest SA/SEA, which reflects that of the earlier Regulation 19 version of the Plan.

The underlying reason why the LPA consider Option 2 to be less sustainable than Option 1 in the latest iteration of the SA/SEA is unsound and unlawful. It has failed to appreciate that Option 2 is not simply based on "to allow car parking in other areas", but is now based on "to provide additional or replacement airport related car parking within the airport boundary and at locations outside the airport boundary provided it is justified by demonstrable need."

For these reasons there is a need to re-appraise the two options in the SA/SEA.

*If required, please continue your response on an additional piece of paper and securely attach it to this response*

*Your representation should cover succinctly all the information, evidence and supporting information necessary to support/justify the representation and the suggested modification, as there will not normally be a subsequent opportunity to make further representations. **After this stage, further submissions will only be at the request of the Inspector, based on the matters and issues s/he identifies for examination.***

**8. If your representation is seeking a modification, do you consider it necessary to participate in the public examination hearings? (Please tick)**

No, I do not wish to participate in the examination hearings

Yes, I wish to participate in the examination hearings

**9. If you wish to participate in the public examination hearings, please outline why you consider this to be necessary:**

The entire basis of Policy GAT3 along with the SA/SEA relating to the same policy in the DCBLP 2021-2037 is entirely flawed and needs to be the subject of discussion .

*The Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate at the public examination.*

If you would like to make a representation on another policy or part of the Local Plan then please complete a separate PART B section of the form or securely attach an additional piece of paper. Copies of the representation form can also be downloaded from the council's website at: [www.crawley.gov.uk/localplanreview](http://www.crawley.gov.uk/localplanreview)

**Signature**

Mr. Tim North of Tim North &  
Associates Ltd

**Date**

05/03/2021

Our Ref: TFN/emn/21/19

Yr Ref:

Date: 18 February 2021



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Dear Sirs

### **Draft Crawley Borough Local Plan 2021-2037 January 2021 Regulation 19 Consultation**

This company raised an objection on behalf of my clients, HX Properties Ltd, to Policy GAT2 of the Regulation 19 version of the Draft Crawley Borough Local Plan 2020-2035, along with paragraphs 10.16 to 10.19 inclusive, providing the reasoned justification behind the same policy.

Policy GAT3 concerned with "*Gatwick Airport Related Parking*" found in the latest Regulation 19 version of the Draft Crawley Borough Local Plan 2021-2037 (hereinafter referred to as DCBLP 2021-2037) reflects the previous version of the same policy, but with less force as the word "*must*" has been omitted before the phrase "*be justified demonstrable need in the context of proposals for achieving a sustainable approach to surface transport access to the airport*". The two limbs comprising Policy GAT3 have now been separated, where previously they formed a single paragraph.

My clients object to Policy GAT3 along with paragraphs 10.24 to 10.27 forming part of the reasoned justification behind the same policy, on the grounds that they have not been positively prepared, neither are they justified, nor are they consistent with national policy.

The reasoned justification behind Policy GAT3 is fundamentally flawed, in that it takes no account of and is inconsistent with, the provisions of Schedule 2 Part 8 Class F of the Town & Country Planning (General Permitted Development) (England) Order 2015 (As Amended). The Airport Owner on "*Operational Land*" can construct surface car parking or build multi-storey car parks in accordance with the above mentioned "*permitted development rights*", for which no express planning permission is required, and more importantly, without having to justify "*...a demonstrable need in the context of proposals for achieving a sustainable approach to surface transport access to the airport*". This situation applies, irrespective of whether the word "*must*" is to be inserted before the phrase "*be justified*".

There is no disputing these facts. What it means is that Policy GAT3 as set out in the DCBLP 2021-2037 is completely unnecessary and serves no valid purpose, nullifying the reasoned justification set out in paragraphs 10.24 to 10.27 inclusive of the same version of the emerging Local Plan. There is no requirement for GAL to justify any form of airport-





related car parking on operational land within its boundary, and equally no requirement to provide a demonstrable need in the context of achieving a sustainable approach to surface transport access to the airport. Put simply, "*permitted development rights*" do not require a demonstrable need to be met.

The fact that the Airport Operator is under no obligation to produce an assessment of demonstrable need to justify any on-airport surface or multi-storey car park on land forming part of its operational area, in accordance with the second limb of Policy GAT3, becomes immediately apparent from the decision taken by your Council to raise no objection to Application No. CR/2017/0523/CON.

It is a well-known fact that Crawley Borough Council rely on GAL to support the central issue of "*demonstrable need*" on applications refused by your authority for long term off-airport car parking in its administrative area. The involvement of GAL means that, by association, it occupies a central position in the decision-making process, particularly in cases where an applicant proceeds to appeal against the Local Planning Authority's refusal or non-determination of a long term off-airport car parking proposal. However, that is not a justifiable reason for incorporating a policy into the emerging Local Plan concerning a form of development in which your Authority have no control.

GAL as a private company, enjoys a dominant position in surface access facilities provided at Gatwick Airport, being present in the upstream market (i.e. facilities at an airport, such as bus stations or car parks), as well as the downstream market (i.e. allowing providers to access the facilities at an airport), where they relate to surface access provision. GAL's presence as an important integral part in the decision-making process, means that land use planning decisions governing airport related car parking proposals cannot be considered to be transparent. That is, they cannot be divorced from, and understandably are influenced by, private sector decisions promoted through GAL's own Capital Investment Programmes.

The insertion of Policy GAT3 into the Regulation 19 version of the DCBLP 2021-2037, where it is not necessary to do so for the reasons stated above, leads on to the question of whether its provisions unnecessarily restrict competition in respect of certain forms of long term off-airport car parking, in particular the "*park and ride*" model, which dependent on the selected location, is equally well placed to achieve a sustainable approach to surface transport access to the airport.

Paragraph 14 of the NPPF 2019 states that for plan-making - "*plans should positively seek opportunities to meet the development needs of their area, and be sufficiently flexible to adapt to change*" (my emphasis). Policy GAT3 fails to achieve the sufficient flexibility sought by national policy, despite the fact that the location of Gatwick Airport is not included in one of the selected areas which provide a strong reason for restricting development in Footnote 2 of the same paragraph of current national policy.

It follows from these representations that if Policy GAT3 is to be retained in the Regulation 19 version of the DCBLP 2021-2037, then consideration should be given to removing "*permitted development rights*" through an Article 4 Direction, where it relates to on-airport car parking provision on "*Operational Land*" within Gatwick Airport. The Article 4 Direction process will then provide the purpose behind the same policy and its



reasoned justification, allowing for more transparent decision-making, if only for reasons of having to justify a demonstrable need.

This is not considered to be an unreasonable request in that GAL in its own representations to the earlier Regulation 19 version of the DCGLP 2020-2035, when considering the use of existing employment sites in the Borough which it states could be used more efficiently by means of intensification, redevelopment and design improvements, add:-

*“It is crucial that the Council uses Article 4 Directions to prevent the further loss of employment sites to residential development via Permitted Development Rights. The Council has continued to lose valuable employment sites due to the conversion of office buildings to residential accommodation via the prior approval process, and the draft Plan should proactively seek means to restrict such loss of its existing employment land stock.”*

A methodology should be agreed in which to assess long term demand and capacity issues concerning both on and off airport-related car parking provision, involving your Authority, GAL and representatives of those involved in lawful long term off-airport car parking facilities. This will reduce issues of dispute, or at least highlight those specific areas where agreement cannot be reached, surrounding existing and future demand for and capacity (supply) of airport related car parking, according to the concept that the same two factors are “*in balance*” as argued by GAL. To this end, through collaboration, a sound base for deciding applications will be provided, not dissimilar to the way in which the NPPF requests Local Planning Authorities to use the standard methodology in order to establish a minimum local housing needs figure (LHN) in their administrative areas.

The contents of supporting paragraph 10.24 to Policy GAT3 refer to the 2019 Section 106 Planning Obligation entered into between Crawley Borough Council, West Sussex County Council and GAL, which sets out an obligation for the Airport Operator to achieve a target of 48% of passengers travelling to the airport by public transport by 2022. The figure of 48% is used as a metric to show that the amount of airport related car parking that needs to be provided for airport passenger throughput, in accordance with the Airport Operators Interim Car Parking Strategy April 2017, is in some way commensurate with public transport modal share. The 48% figure is not considered to be a challenging target, in that in the fourth quarter of 2017, (October to December), CAA’s O & D data reveals that a public transport modal share figure of 48.3% was reached, being in excess of the 48% target figure set down for 2022.<sup>1</sup>

No evidence has been produced to demonstrate that long term off-airport car parking has prevented the modal share in favour of public transport from being reached, as set out in the various iterations of the Gatwick Airport Surface Access Strategy (hereinafter referred to as GASAS) and associated Section 106 Planning Obligations. The target figure of 48% is in all probability likely to be met, even in the event that the figure were to be increased, when it is realised that visitors to the UK are always more likely to use public transport than those living and working in the UK.

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<sup>1</sup> See the evidence of Mr Tom Nutt, Crawley BC to the Former Gasholder Station Car Park Appeal, the inquiry of which took place on 15-17 May 2017.



The contents of paragraph 10.25 providing part of the reasoned justification to Policy GAT3 refer to a number of lawful long term off-airport car parking businesses, serving the needs of passengers using Gatwick Airport. The figure for long term off-airport car parking spaces set out at paragraph 2.3.30 of the Gatwick Airport Masterplan 2019, namely 21,196 authorised spaces is strongly disputed. There has been a consistent and marked reduction in the supply of long term off-airport car parking provision serving the airport, since the Gatwick Airport Interim Master Plan was published in 2006.

Long term off airport car parking provides an important contribution to airport related car parking, meaning that it has a role to play in the supply of the same product, meeting not only a quantitative, but also a qualitative requirement. A number of long term off airport car parks have been found to occupy “*sustainable locations*” whilst at the same time offering “*customer choice*”<sup>2</sup>. This becomes evident from Inspectors’ appeal decisions in your Council’s administrative area, as well as the contents of Case Officers’ reports granting planning permission for the same use.

A more flexible approach is required in the consideration of airport related car parking provision, given that issues of sustainability, when taken to an extreme as is the case with Policy GAT3, results in locations being defined solely by reference to whether a site lies within or outside the boundary of Gatwick Airport. That approach produces an anomalous situation, in that were your Council to accept an alteration to the boundaries of Gatwick Airport, so that it is commensurate with that indicated on Plan 20 in the Gatwick Masterplan 2019, (i.e. leading to an extension to the east beyond the London to Brighton Railway Line towards the M23 Motorway); what is at present considered to be an unsustainable location, would automatically become sustainable.

In devising a policy devoted to “*Gatwick Airport Related Parking*”, requires sustainability issues to extend beyond consideration of whether a site is situated within or outside the boundaries of Gatwick Airport. A restrictive policy of the kind set out in GAT3 has adverse implications, with associated disadvantages for airport related car parking, with inadequate account taken of other related issues surrounding airport car parking provision, significant amongst which is unauthorised provision found in adjoining Authorities’ administrative areas, some distance from the airport.

Indeed, Policy GAT3 takes no account of i) access arrangements from the particular car park whether on or off airport to the terminal buildings; or ii) the advantages of transporting a number of passengers to the Airport’s terminals utilising low emissions/eco-friendly buses. These benefits associated with a traditional park and ride off-airport parking facility have the ability to lead to a reduction in traffic movements, thereby alleviating congestion at strategically located junctions situated in close proximity to Gatwick Airport, at the same time having the propensity to reduce carbon emissions on-airport.

It is said in GAL’s representations to the July 2019 version of the DCBLP that the aim is to offer an attractive on airport car parking product as a means of discouraging use of less

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<sup>2</sup> See appeal decisions at Acacia Grove, Copthorne (PINS Ref 2153589); City Place, Crawley (PINS Ref 2171971 & 2071972); and the Case Officer’s report at Southways Business Park (Crawley BC Ref. No. CR/2033/0094/FUL); Site E2 Crawley Business Quarter (Crawley BC Ref. No. CR/2014/0080/FUL and the Former BOC Edwards Site (CR/2014/0615/FUL).



sustainable car parking options, which double the amount of car trips, whilst generating extra surface access journeys, which it is argued, add to congestion and CO<sub>2</sub> emissions compared with “*park and fly*”. These comments are wholly predicated on the “*kiss and fly*” and “*meet and greet*” car parking modes serving Gatwick Airport, which are the least sustainable. They take no account of traditional long term park and ride facilities, which are infinitely more sustainable than encouraging passengers to park on-airport. To the extent that GAL refer to a “*residual and increasing demand for parking for those passengers who choose to use the car*” dictates that the long term off-airport “*park and ride*” model has the ability to be the most sustainable option after dependence on public transport. Their importance will no doubt increase as electric vehicles become increasingly popular.

It is a known fact that unless additional resources are provided to the Authority, and a proactive approach is taken to enforcement proceedings in respect of unlawful off-airport car parking uses, the ability to ensure a sustainable approach to airport related car parking will never be realised. Your Authority are on record as stating that unauthorised long term airport related car parking will continue to be a source of capacity (supply) into the future. Given these circumstances, to pursue a strategy which perpetuates, at the same time places reliance on unauthorised long term off-airport car parking, in preference to a properly managed lawful long term off-airport car parking facility, is the very antithesis of “*managing*” airport related car parking provision into the future.

Evidence reveals that adopting the tact outlined in the previous paragraph will encourage long term off-airport car parking facilities of all models, in least sustainable locations seen in terms of distance to the north and south terminals, and is required to be compared with what otherwise may arise from lawful long term off-airport park and ride facilities which from a locational perspective, are sited in close proximity to the same terminals. It is also infinitely more sustainable to have sites granted planning permission, than for long term off-airport car parking facilities to be made lawful through CLEUDs.

To impose an embargo on lawful long term off-airport car parking uses based on the park and ride model, would simply play into the hands of those unauthorised long term off-airport car parking businesses operated by rogue traders, with all the ensuing bad publicity for airport related car parking. It simply hands the impetus to those seeking CLEUDs for long term off-airport car parking uses on sites distant from the airport, catering for the “*meet and greet*” mode, which is the least desirable from a transport sustainability perspective.

Policy GAT3 pays no regard to the increasing provision of organisations such as JustPark, a technological platform matching drivers with car parking spaces through its website and app, representing what is referred to as the “*sharing economy*”, having a profound impact on the ability to reduce the private car mode in favour of public transport, and appearing less sustainable than the provision of a traditional long-term off-airport car parking facility. To these considerations can also be added the increasing focus placed on the use of on-street car parking, sometimes known as transit parking, in residential areas, before walking or taking a cab to the airport’s terminals.

In conclusion, Policy GAT3 represents an abrogation of the responsibilities concerning the topic of airport related car parking from the Local Planning Authority to a private company, namely the Owner/Operator of Gatwick Airport, who is then passed the remit of meeting the modal split target of passengers, through total reliance placed on



on-airport related car parking, without assessing alternative forms of access by private car to the same international airport. There are forms of long term off-airport car parking use which are in a position to contribute to sustainable transport through the provision of a public transport levy, in the same way a GAL provides for those travellers who have no alternative but to rely on the private car to access Gatwick Airport.

Yours faithfully

Tim North

**T.F. North**

Cc: Howard Dove, HX Properties Ltd