

Local Plan Representation

FPLP525371659

PART A Personal details

| | |
|--------------------------------------|-------------------------------|
| Title | Mr. |
| First name | Howard |
| Last name | Dove |
| Organisation | HX Properties Ltd |
| Is the address | Outside Crawley, or not found |
| Flat name or number | none |
| House name or number | none |
| Street | Ashford Road |
| Neighbourhood | Newingreen |
| Town | Hythe |
| County | Kent |
| Postcode | CT21 4JF |
| Email | Howard.dove@holidayextras.com |
| Confirm email | Howard.dove@holidayextras.com |
| Mobile number | 07974141696 |
| Has a planning agent been appointed? | Yes |

PART A Agent details

| | |
|---------------------------------|------------------------------------|
| Title | Mr. |
| First name | Tim |
| Last name | North |
| Organisation | Tim North & Associates Ltd |
| Need to enter address manually? | Outside Crawley or not found |
| Flat name or number | none |
| House name or number | Maple Gate |
| Street | Abbots Field |
| Neighbourhood | Brampton Abbots |
| Town | Ross-on-Wye |
| County | Herefordshire |
| Postcode | HR9 7JD |
| Email | Timnorth.associates@btinternet.com |
| Confirm email | Timnorth.associates@btinternet.com |
| Mobile (Please remove spaces) | 07836678903 |

PART B Your representation

| | |
|---|--|
| Which document would you like to make a representation on? | Crawley submission Sustainability Appraisal |
| Which part of the Local Plan does this representation relate to? | Other |
| Please give details. | See attached letter dated 20th June 2023 from Tim North & Associates Ltd |
| Legally compliant? | No |
| Sound? | No |
| Compliant with the duty to co-operate? | Yes |
| Please give details explaining your response. | See attached letter dated 20th June 2023 from Tim North & Associates Ltd |
| Please set out what modification(s) you consider necessary to resolve the issues you have identified above. | A re-evaluation of the SA/SEA relating to the CBLP 2024-2040 where it relates to Policy GAT3 and a re-appraisal of reasonable alternatives with a new Option X as per attached letter dated 20th June 2023 from Tim North & Associates Ltd |

If your representation is seeking a modification, do you consider it necessary to participate in the public examination hearings?

Yes, I wish to participate in the examination hearings

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

A re-evaluation of the SA/SEA relating to the CBLP 2024-2040 where it relates to Policy GAT3 and a re-appraisal of reasonable alternatives with a new Option X as per attached letter dated 20th June 2023 from Tim North & Associates Ltd

Do you wish to upload any supporting documentation or files?

Crawley Borough Local Plan 2024-2040 SA SEA Repts June 2023.pdf

Form submitted by:

Mr. Tim North of Tim North & Associates Ltd on 20/06/2023

Our Ref: TFN/emn/21/19

Yr Ref:

Date: 20 June 2023



Tim North
& Associates
Limited

Chartered Town Planning
& Development Consultants

Strategic Planning
Crawley Borough Council
Town Hall
The Boulevard
Crawley
West Sussex RH10 1UZ

17A Reading Road
Pangbourne
Berkshire RG8 7LR
T 0118 984 3333
F 0118 984 3332
E Timnorth.associates@btinternet.com

Dear Sirs

Crawley Borough Local Plan 2024-2040: Submission Consultation Draft May 2023

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 May 2023 accompanying the Submission Consultation Draft Version of the Crawley Borough Local Plan 2024-2040 (hereinafter referred to as the CBLP 2024-2040), where it relates to Policy GAT3. It is contended that the SA/SEA is deficient 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 Article 5 of the Directive setting out the requirement to identify, describe and evaluate the likely significant environment effects of “reasonable alternatives”. These provisions have been transposed into UK law through the Environmental (Assessment of Plans and Programmes) Regulations 2004, Regulation 12 being involved in the preparation of an environmental report.

It is contended that additional “reasonable alternatives” to Policy GAT3 exist, which have not been evaluated by the Local Planning Authority, which it is argued represents a fundamental flaw in the soundness of the assessment 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}. 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).

In the case of the Submission Consultation Draft version of the CBLP 2024-2040, two alternative policy scenarios have been considered. Option 1 is the provision of additional or replacement airport-related car parking which will only be permitted where it is (i) located within the airport boundary; and (ii) it is justified by 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 is to allow for the provision of



additional or replacement airport-related car parking within the airport boundary provided it is justified by a demonstrable need.

Option 2 does not proceed to qualify what is meant by demonstrable need, as is the case with Option 1, although the Commentary where it relates to Option 2 refers to the Section 106 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 2024.

To the extent that the Submission Draft Plan extends to a period from 2024 to 2040, no reference is made in either Option in the Submission Consultation Draft version of the CBLP 2024-2040 to the latest published ASAS 2022-2030 which includes a target seeking to achieve 52% of passenger journeys to the airport by public transport by 2030, as part of meeting a target of 60% by sustainable modes and ultra-low or zero emission vehicles. Furthermore, no reference is made in either Option in the same document to airport related car parking involving the Northern Runway project for which a DCO application is expected to be submitted imminently to the Secretary of State at the time of writing these representations.

The SA/SEA as part of the statutorily adopted Crawley Borough Local Plan 2015-2030 considered two options in respect of the predecessor version of Policy GAT3, namely Option 1 which was to provide additional car parking within the airport boundary, and Option 2 to allow car parking in other areas.

Option 1 in the CBLP 2024-2040 has the same intention as Option 1 relating to the same policy where it concerns the statutorily adopted Crawley Borough Local Plan 2015-2030. Option 2 in the CBLP 2024-2040 also has the same underlying aim as Option 2 in the statutorily adopted Crawley Borough Local Plan 2015-2030. The latter becomes evident from the High Court judgment *Holiday Extras Ltd v Crawley Borough Council (2016) EWHC 3247 (Admin)* delivered on 30th November 2016 relating to the Section 113 challenge to the SA/SEA concerning Policy GAT3, wherein the Planning Policy Manager for the Borough Council is recorded as stating that Option 2 was a relaxation of Policy GAT3 by “replacing the priority for the airport with a policy which would allow on and off parking to meet needs.” {14}

The SA/SEA comprising part of the CBLP 2024-2040 considers 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 GAT3 of the CBLP 2024-2040 has been assessed.

Sustainability objectives 9 and 10 where they relate to the SA/SEA dated December 2015 concerning the adopted Local Plan have subsequently been amalgamated to produce one sustainability objective 9 in the SA/SEA of the CBLP 2024-2040. 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, have now been amalgamated into a single sustainability objective 9 where it forms part of the latest version of the SA/SEA concerning Policy GAT3 in the Submission Consultation Draft May 2023, 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 has 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 Submission Consultation Draft 2024-2040 where it concerns the same policy. This being the case, and given that the two policy options are virtually identical between the two SA/SEAs; no reasoned justification has been advanced as to why the scores in respect of the Submission Consultation Draft May 2023 SA/SEA where it relates to Policy GAT3 has now changed.

In the SA/SEA dated December 2015 relating to the adopted Crawley Borough Local Plan 2015-2030, the two options concerning Policy GAT3 scored identically in respect of all ten sustainability objectives. It is therefore surprising that when the same two options in the latest version of Policy GAT3 are examined in the context of the SA/SEA relating to CBLP 2024-2040, different scores are recorded, particularly in respect of Option 2.

Sustainability objectives 1 and 2 concerned with the need to minimise climate change, and adapt to climate change respectively, both scored a single minus, (i.e. having a negative impact on the sustainability objective) in respect of both options relating to Policy GAT3 of the adopted Local Plan. The scoring has now been altered in the Submission Consultation Draft May 2023 where it concerns Policy GAT3. Sustainability objectives 1 and 2 now score a double minus (significant negative impact on the sustainability objective) where it relates to both Options 1 and 2.

Similarly, in respect of sustainability objective 6 which relates to conserving and enhancing biodiversity and landscape, Options 1 and 2 of the Submission Draft May 2023 both score a possible negative or slight negative impact where previously as part of Policy GAT3 in the adopted Local Plan they had a neutral impact. Similarly in the case of promoting sustainable journeys forming sustainability objective 7, Option 1 of the latest version of the SA/SEA now scores a single minus, being a negative impact; whilst Option 2 scores a double minus, being a significantly negative impact.

It is alterations of this nature at times when circumstances have not fundamentally changed and the sustainability objectives remain identical, which casts doubts on the veracity of the entire SA/SEA process. All other sustainability objectives score identically between the two SA/SEAs where they relate to Policy GAT3 in the Submission Consultation Draft May 2023.

My clients find that the SA/SEA concerning Policy GAT3 in the CBLP 2024-2040 to be deficient and unsound for other reasons.

Firstly, Option 1 where it forms part of the CBLP 2024-2040 allows for additional or replacement airport-related car parking, subject to two criteria. The second criterion is that 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. It is a matter of fact that GAL are able to rely on 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*" irrespective of the nature of the on-airport related car parking product, does not require



express planning permission and therefore do not have to justify “*a demonstrable need in the context of proposals for achieving a sustainable approach to surface transport access to the airport within the airport boundary.*”

The same proposition equally applies to Option 2 in cases of additional or replacement airport related car parking within the airport boundary.

Secondly, it is recognised that a proportion of non-transfer passengers will choose to access the airport by private car in both options. To the extent that both options are required to accord with the Section 106 legal agreement, namely 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 2024, means that the same provisions apply irrespective of whether the application is concerned with an on-airport or off-airport location. In short, the Section 106 legal agreement is not solely concerned with on-airport car parking spaces in terms of meeting public transport journeys.

Thirdly, there is no evidence to justify the proposition that allowing airport related parking in off-airport locations either has or is likely to encourage users to access London Gatwick Airport by car and increase the number of trips and distance travelled by the vehicle to and from the airport. There is an distinct absence of any research proving that a long term off-airport car parking use has prevented the modal share in favour of public transport at an airport from being reached, whether expressed as a target in an ASAS or in a Section 106 Planning Obligation. On the contrary, the 48% public transport target referred to in the Section 106 Planning Obligation was exceeded in the fourth quarter of 2017 in accordance with CAA’s O & D Survey.

It is contended that there are materially different forms of long term off-airport car parking. The traditional “*park and ride*” model involves a site with available reception facilities and compound areas where cars are blocked parked, with a courtesy mini bus or coach transferring the passengers to the airport terminals. The reverse occurs when the passenger returns, when they are picked up by the courtesy bus or coach and transferred back to the long term off-airport car parking facility to collect their car. The mini buses or coaches in such circumstances are normally replaced every three to four years, so there is the added benefit of the means of transportation relied on being the most efficient in terms of air quality and carbon emissions. This important factor however is not reflected in the scores where it relates to sustainability objectives 1 and 2.

Fourthly, there is no justification to conclude that the provision of airport related parking in off-airport locations can detract from biodiversity and landscaping as a consequence of requiring hardstanding and lighting, and placing pressures on land which could be more beneficially used for other purposes. In both Options 1 and 2, the sustainability scores are identical, having a possible negative or slight negative impact, nullifying this statement. Whether the airport-related car parking is on-airport or off-airport necessitates hardstanding and lighting. Indeed, where there is a tightly drawn airport boundary as is the case with London Gatwick Airport, places pressure on land which could be more beneficially used for other airport-related activities.

It is for these reasons that it is contended Option 2 does not amount to a “*reasonable alternative*”.



A more appropriate alternative would be what is referred to as Option X, which is the provision of additional or replacement airport related car parking within the airport boundary; along with airport related park-and-ride provision outside the airport boundary, which in the case of the latter, is justified by a demonstrable need in the context of proposals for achieving a sustainable approach to surface transport access to the airport.

In the case of Option X, it is contended that the sustainability objective scores would, at their worse, be no different from the sustainability scores set out in Option 1 of the SA/SEA relating to the Submission Consultation Draft May 2023, irrespective of whether a possible reassessment of sustainability objective 6 is undertaken.

The importance of introducing Option X is that neither Option 1 nor Option 2 considers the impact of the Northern Runway proposal envisaged to take place during the period governed by CBLP 2024-2040. There is uncertainty surrounding the ability of GAL to provide sufficient on-airport car parking to cater for the increase in passenger throughput to the airport envisaged as part of the forthcoming DCO application, irrespective of the intention of meeting a target of 60% of passenger journeys by sustainable modes and ultra-low or zero emission vehicles.

The airport would find itself in particular difficulties in circumstances where lawful long term off-airport car parking sites were not available in providing a choice for airport passengers. In this regard reference should be made to a report published by the Civil Aviation Authority in December 2016 entitled "*Review of Market Conditions for Surface Access at UK Airport – Final Report*", which focused on two main topics:

- To understand the market structure for surface access, in particular how competitive conditions for road and forecourt access at individual UK airports affect outcomes for consumers. This included interaction between airport operators and surface access providers such as independent car parking operators, taxi/mini cab operator, bus operators and car hire operators; and
- Transparency in terms of the extent to which consumers are well informed about the options they have to access UK airports and the prices for them. This included how surface access products and distributed.

The report concluded:

- Different passengers have different needs and preferences and not all modes will be perfect substitutes. Therefore, a situation where there is more than one competing provider of each mode, or at least the possibility of new entry would provide choice to passengers compared to a situation where passengers have to rely solely on competition between modes.
- Some aspects of this sector may potentially give rise to risks to consumers in terms of choice and value for money.
 - Airport operators tend to control a large proportion of the facilities needed to run surface access operations, both at the forecourt and in surrounding areas (such as land suitable for car parks, surface transport interchanges, etc).



Airport operators also provide many surface access products directly to consumers, often in competition with independent operators who require access to the airport's facilities. Airport operators are therefore active in both the provision of facilities (upstream) and in the service itself (downstream).

- Surface access is one of the few areas where airport operators have a direct relationship with consumers. This may serve to strengthen the position of the airport operator, as passengers are less likely to have bargaining power than airlines and retailers who engage in commercial negotiations with airport operators.

The park-and-ride model has added benefits of resulting in fewer journeys to the airport, through taking advantage of low emissions vehicles, whilst at the same time reducing congestion on local roads near the airport and thereby improving air quality; compared with the case where the equivalent number of passengers relying on the private car would otherwise travel directly to London Gatwick Airport and then park on-airport. This benefit occurs irrespective of whether the passenger's car is an ultra-low or zero emission vehicle. In addition, long term off-airport car parking operators make an important contribution to the economy through the provision of jobs.

This "*reasonable alternative*" would rely on mitigation of the same negative impacts as Option 1 in the SA/SEA relating to the Submission Consultation Draft May 2023.

It also takes into account that the planning system should be seen to operate in the **public interest** of local communities and the region as a whole, encompassing the present as well as future needs of society. It does not exist to protect the private interest in terms of one person against the activities of another, although private interest may coincide with the public interest in some cases.

It follows there is a need to re-evaluate the SA/SEA relating to the CBLP 2024-2040 where it relates to Policy GAT3 and a re-appraisal of reasonable alternatives, if the same process is not to be considered unsound.

Yours faithfully

T.F. North

T.F. North

Cc: Howard Dove, HX Properties Ltd