



## Appeal Decision

Inquiry Held on 30 November and 1, 2, 6, 7 & 8 December 2022

Site visit made on 1 December 2022

**by G D Jones BSc(Hons) DipTP DMS MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 6 March 2023**

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**Appeal Ref: APP/D0121/W/22/3293919**

**Land Adjacent to Heathfield Park, Bristol Road, Hewish BS24 6SG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by J B Pearce Limited against the decision of North Somerset Council.
  - The application Ref 20/P/1438/FUL, dated 25 June 2020, was refused by notice dated 1 September 2021.
  - The development proposed is described as the change of use of land from gypsy pony track/agricultural land to use for a Park and Ride car park for Bristol Airport with 3101 parking spaces plus arrival/departure area with construction of associated roads and surfaces and the erection of a reception centre.
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### Decision

1. The appeal is dismissed.

### Applications for Costs

2. Applications for costs were made by:
  - J B Pearce Limited against North Somerset Council;
  - J B Pearce Limited against Bristol Airport Limited;
  - North Somerset Council against J B Pearce Limited; and
  - Bristol Airport Limited against J B Pearce Limited.
3. These costs applications shall be the subject of separate Decisions to follow.

### Preliminary Matters

4. A unilateral undertaking, made under s106 of the Town and Country Planning Act 1990, (the UU) was submitted after the Inquiry closed in accordance with an agreed timetable. I have had regard to the UU when making my decision.
5. Due to unforeseen circumstances, the Council did not call its transport witness to give oral evidence at the Inquiry. Nor did it seek an adjournment to allow him to attend. In the circumstances, although I have had regard to the Council's written evidence on this matter, given that the appellant did not have the opportunity to cross examine that witness, the weight carried by the Council's evidence on this matter is limited.

## Main Issues

6. The main issues are:

- Whether the proposed use would accord with the Council's policy for the location of new development and its effect on sustainable modes of travel;
- Its effect on the living conditions of nearby residents, having particular regard to noise; and
- Its effect on biodiversity, including in respect to the North Somerset and Mendip Bats Special Area of Conservation and Bats, Otters and Water Voles as protected species.

## Reasons

### *Location Policy and Sustainable Transport*

7. The proposed development is intended to serve Bristol Airport (the Airport). Airport customers would travel in private vehicles to and from the site, where those vehicles would be parked awaiting the travellers' return. Travellers would be transported between the site and the Airport via a shuttle service provided by the site operator. Consequently, the site would not be a destination as such. Rather, it would be a stopping-off point as part of a journey to or from the Airport in order to access, or return from having used, air travel.
8. It is inevitable that a use of the scale and nature of the Airport gives rise to a range of environmental effects that need careful management and planning. Accordingly, Policy CS23 (Bristol Airport) of the North Somerset Core Strategy, January 2017, (The Core Strategy) requires *proposals for the development of Bristol Airport ... to demonstrate the satisfactory resolution of environmental issues, including the impact of growth on surrounding communities and surface access infrastructure*. Policy DM50 (Bristol Airport) of North Somerset Sites and Policies Plan Part 1: Development Management Policies, July 2016, (the DMP), which is expressly linked to Policy CS23, allows development at the Airport within the Green Belt inset at Lulsgate subject to certain criteria. These include that *appropriate provision is made for surface access to the airport, ... together with improvements to public transport services*.
9. DMP Policy DM30 concerns off-airport car parking. Amongst other things, it states that *outside of the Green Belt, airport related car parking additional to that approved at Bristol Airport or acceptable under Policy DM50: Bristol Airport will only be permitted in association with existing overnight accommodation located on the same site*. It is common ground between the main parties that the proposed development would conflict with Policy DM30 and I have found no reason to disagree.
10. Core Strategy Policy CS10 concerns transport and movement. Amongst other things, it promotes sustainable modes of transport and realistic alternatives to the car. The proposed development would offer an alternative to the private car for the leg of the journey from the site to the Airport via the shuttle service. Nonetheless, in order to arrive at the site, a journey by car would be necessary.
11. From what I have seen and heard during the appeal process, it appears that the planning controls governing the operation and expansion of the Airport

- have been carefully considered and designed to jointly limit and manage parking at the Airport, and also encourage air passengers travelling to and from the Airport to use public transport, with an emphasis on growing the use of public transport. I recognise, though, that the proposed development would provide competition, for instance, in terms of presenting an alternative to the car parking offer at the Airport, as existing and as permitted / planned. Clearly competition can bring benefits, particularly in terms of choice for customers.
12. Nonetheless, as a commercial undertaking, in order to be competitive, the operation of the appeal use would be likely to draw customers away from not only the Airport's car parks but also away from using public transport. Part of the journey of customers using the site would be via the proposed shuttle service. This would, though, be a relatively short proportion of most journeys such that the overall effect of the proposed development would be likely to undermine the Airport's approved strategy for managing surface movements and particularly in terms of attracting Airport customers who would otherwise be likely to use public transport for much if not all of their journey to / from the Airport. On this basis, it would be likely to lead to a significant over-supply of Airport parking. In turn this would have the potential to seriously undermine measures designed to increase modal shift to alternatives that do not rely on the private car or at least have less reliance on the car.
  13. It appears likely that the proposed use would be attractive to Airport users from the southwest of England given the site's location relative to the M5. The proposed service would overlap with existing bus services, including the A3 - Weston Flyer, which connects the Airport and Weston-super-Mare railway station. I am advised that there are plans to enhance the A3 service by increasing its frequency to one bus every 30 minutes when the Airport reaches 10 million passengers per annum (mppa) and to potentially integrate the service with Worle railway station. The proposed use also appears likely to compete with the Stagecoach Falcon Coach service, which serves Plymouth, Exeter and Taunton, and connects to the Airport.
  14. Notwithstanding the quality of service that the appellant has in mind for the appeal use, it seems likely as a matter of principle that the significant majority of Airport customers would favour using parking at or close to the Airport, given its proximity to where their flight would depart from / arrive at, or public transport that drops off at / collects from the Airport in preference to the appeal site, which is located some distance away, requiring a shuttle journey. In order to be competitive, therefore, it is likely that the appeal use would employ comparatively lower pricing as part of its offer.
  15. The appellant has put forward proposals intended to control the proposed use, including in respect to pricing and alignment to the Airport's operations. These are in the form of obligations within the UU and a suggested condition. Nonetheless, I have significant misgivings over how effective these measures would be in practice.
  16. Regarding the suggested condition, it appears that the appeal development would be built out in full, thus delivering some 3,100 spaces. This contrasts with the condition governing the Airport's parking, which provides for delivery in phases in response to demand, taking account of public transport mode share. Consequently, delivery of parking at the appeal site would not be controlled relative to demand / need in the manner that the permitted parking

- at the Airport is. While it would be open to me to impose a condition to control phasing of the appeal development, it is not clear from the information before me how such a condition would be effectively constructed, for instance, what amount of parking would be justified and at which stage.
17. It is conceivable, at least in theory, that the extent of the use of the fully completed appeal development might be controlled, for instance by limiting the number of spaces that are made available for use, thereby constraining supply. Indeed the appellant's suggested condition appears to aim to do this.
  18. However, it is unclear what the 'parking capacity report' referred to in the appellant's suggested condition, which would be submitted to the Council under the terms of the condition, would include. Nor is it clear how the Council could reasonably interpret the contents of such a report in order to take action to potentially limit the permitted use once it had commenced. Indeed, it is not entirely clear what 'capacity' would mean in the terms of that condition. If it were to mean *usage*, it seems likely that the site operator would be further incentivised, in addition to normal commercial motivation, to operate the site at full capacity in order to potentially justify to the Council why the site might be permitted to operate at full capacity, or at least a high level of capacity, in future.
  19. Although I do not believe that it would be, even if such a condition based mechanism were to be effective, the appellant's suggested condition would provide a 12 months' period during which there would be no control over the amount of customers using the site / the number of spaces in use. This alone could have a significant effect on the uptake of public transport for longer trips to and from the Airport.
  20. I have given thought as to how such a condition might be reworded or replaced with something suitable, for instance, something along the lines of the 'manage and monitor' condition that controls the car park development at the Airport. However, I have not found a condition or set of conditions that would achieve the objective of reasonably ensuring that the proposed use would not have a significantly detrimental effect on modal shift to more sustainable modes of transport. I have done so bearing in mind that the appellant does not propose to invest in public transport other than the proposed shuttle service in order to counteract the likely negative affect of the appeal use on more sustainable modes of transport.
  21. I recognise that the proposed use itself would not generate journeys as such, given that customers would only access the site in order to make their way to / from the Airport. However, this takes nothing away from the conclusions outlined above regarding more sustainable modes of transport.
  22. Regarding the UU, there is an obligation therein that would require the site operator to submit details to the Council of how car park pricing levels for the appeal development would be monitored, reviewed and adjusted in line with the Airport's existing / future Airport Surface Access Strategy (ASAS) and that the approved pricing levels shall be applied for the duration of the approved period.
  23. However, I have significant concerns regarding how effective this obligation would be in practice. These include that there is no express mechanism for the Council to approve those matters, only for them to be submitted. Similar to

- the condition, as discussed above, it is also unclear how the Council could appraise any information submitted. Moreover, while the UU provides for the submission of a methodology for how pricing levels would be derived and that approved pricing levels would be applied, it does not appear to provide the Council with the ability to actually approve pricing levels.
24. In the circumstances, therefore, without a means of controlling pricing, it seems likely that the operator of the site would employ lower pricing compared to the Airport's parking in order to be competitive. This would have the potential to not only attract air travellers who would otherwise have parked closer to the Airport, but also travellers who might otherwise have taken public transport for all or a large part of their journey to / from the Airport.
  25. There is extant planning permission for additional parking at the Airport designed to meet future need. Its delivery is controlled with the intention of ensuring that what is provided is commensurate with the permitted increase in passenger flights. There is no good reason to believe that that permitted car parking will not be implemented as planned. Accordingly, there is no apparent need for the appeal development in order to support the operation of the Airport now or in the foreseeable future. Moreover, there is good reason to believe that the additional permitted car parking at the Airport would not adversely affect targets to increase public transport use associated with Airport passengers, in contrast to the appeal development.
  26. There is disagreement between the parties over whether or not the appeal development would amount to public transport. Its primary purpose would be to intercept private vehicle journeys and transfer them onto the shuttle service. I have significant doubts over whether such a service/use, in its totality, could be reasonably said to amount to public transport given the likely length of its customers' journeys in private vehicles compared to the comparatively short shuttle trip between the site and the Airport. Indeed, I broadly agree with the evidence put forward by the Airport on this matter for the reasons it has given.
  27. Nonetheless, even if the appeal use were to be labelled 'public transport', for the reasons outlined above, there would still be a significant likelihood that the proposed development would adversely affect the sustained and increased use of more sustainable, longer distance public transport modes by Airport customers.
  28. The Joint Local Transport Plan 4 2020-2036, March 2020 (the JLTP4), as led by the West of England Combined Authority, states that the ASAS which the Airport is required to produce by the Government will include options to improve connectivity across transport modes including, amongst other things, 'Park & Ride'. The JLTP4 also makes reference in broader terms to the positive role that park and ride can play. I also note my colleague Inspectors' report to the Secretary of State regarding the expansion of the Airport to allow a throughput of 12 mppa, as approved on 2 February 2022. That report includes reference to the contribution that park and ride might make to the provision of Airport car parking in future.
  29. While the JLTP4 does not form part of the development plan, it is certainly a material consideration. Nonetheless, given the objective of promoting modal shift in order to limit and control the environmental effects of the Airport, it is reasonable to work on the basis that the makers of the JLTP4 and that panel of Inspectors considered any such park and ride provision would be designed to

deliver improved public transport to and from the Airport, reducing reliance on private vehicles. For the reasons outline above, the proposed scheme appears unlikely to do either, indeed it seems most likely that it would result in the contrary.

30. The appellant's UU also undertakes to pursue the objectives of the ASAS. I have significant doubts about the value of such an obligation, not least because it is unclear what is meant by 'pursue' or how the site operator would 'pursue' those objectives, which include to increase the use of public transport by passengers. Certainly, the appellant has made no express commitment to invest directly in public transport improvements beyond the proposed shuttle service associated with the proposed use. It is also difficult to clearly see how the Council would go about assessing compliance with this obligation nor, in turn, how it might enforce a perceived breach.
31. The UU does, though, include obligations regarding public transport mode share relative to key performance indicators (KPIs). These KPIs are linked to the Airport's own unilateral undertaking for the 12 mppa planning permission, which includes actions in the event that the KPIs are not met. In contrast, the appellant's UU requires intervention after a third consecutive year of the Airport failing to reach its public transport mode share KPI.
32. For the reasons outlined above, during that timeframe the appeal use has the potential to inhibit the Airport's efforts to increase public transport mode share, which would be likely to undermine the increased use of more sustainable modes of transport. Consequently, while appearing well intentioned, this aspect of the UU is also a significant point of concern.
33. There are also a number of other obligations within the UU that are intended to mitigate any detrimental effect of the development on modal shift. They include those relating to a bus management scoping report and pursuant actions, the timetable and routing of the shuttle service between the site and the Airport, and a public transport awareness raising plan. However, while these all appear to be well intended, individually or collectively with the other measures proposed / secured it is difficult to see how they might have a significant effect on public transport use or mitigate the likely negative effects of the appeal use on the use of more sustainable modes of transport.
34. The UU also includes obligations that are intended to take out of use, or prevent the bringing into use of, more than 3,500 off-Airport car parking spaces, which the appellant maintains can operate under permitted development rights. However, there is no clear or compelling evidence that the land in question has in the past provided, does currently or would provide in the future a significant or reliable source of car parking. Accordingly, this undertaking can attract only limited weight.
35. For the foregoing reasons, therefore, the proposed development would not accord with the Council's policy for the location of new development and would also be likely to have a detrimental effect on planned modal shift and the use of sustainable modes of travel. Consequently, it would be contrary to Policies DM24 (Safety, traffic and provision of infrastructure, etc. associated with development) and DM30 of the DMP, and Policies CS1 (Addressing climate change and carbon reduction) and CS10 (Transport and movement) of the Core Strategy.



### *Living Conditions - Noise*

36. The appeal site adjoins gypsy caravan sites located to the east, Heathfield Park and Moorland Park. The proposed development would result in cars parked / stored reasonably close to the nearer of these sites. Occupants of caravans are more likely to be effected by external noise compared to residents of traditional 'bricks and mortar' housing, given that caravans are generally of a less substantial construction. For these reasons, bearing in mind the 24 hours a day nature of the proposed use, the appeal scheme has the potential to have an adverse effect on the living conditions of neighbouring residents, particularly during the night.
37. The main source of background noise is from the A370. Although they differ, the appellant's and the Council's assessments both indicate the site is quiet at night. Nonetheless, the appellant's assessment of the background night time noise level is likely to be overstated as it is based on 1 hour, rather than 15 minute intervals. Additionally, the Council's assessment also makes provision for wind direction based on an assessment at a nearby site, whereas the appellant's does not. I recognise that that assessment was made during the pandemic, when noise levels were likely to have been lower than in more normal times. It is, nonetheless, likely to provide a reasonable representation of the pattern for any noise level on the A370. Overall, therefore, the Council's assessment of night time background noise appears likely to be the more accurate of the two.
38. I recognise that careful management of the appeal use has the potential to localise and constrain noise generated at the site. Notwithstanding such measures, it remains likely that the use would introduce loud impulsive sounds at night, such as car doors and boots closing, to what is currently a quiet site in close proximity to residential property. Accordingly, the most appropriate methodology for assessing the scheme is that contained in British Standard 4142:2014+A1:2019 Methods for rating and assessing industrial and commercial sound (BS4142).
39. In coming to this conclusion I have taken into account that, amongst other things, BS4142 is specified as *a method for rating and assessing sound of an industrial and/or commercial nature which includes sound from mobile plant and vehicles that is an intrinsic part of the overall sound emanating from premises or processes ... on and around an industrial or commercial site*. This appears to be appropriate to the appeal scheme as a commercial use bearing in mind the kind of noise that is likely to be associated with customers' vehicles.
40. Other methodologies have been put forward. These include the Institute of Environmental Management & Assessment's Guidelines for Environmental Noise Impact Assessment (IEMA), British Standard 8233:2014 Guidance on sound insulation and noise reduction for buildings (BS8233), and the World Health Organisation's Night Noise Guidelines for Europe (WHO).
41. The appellant's witness accepted that IEMA is not appropriate to this case and I have found no reason to disagree. BS8233 states that it *does not provide guidance on assessing the effects of changes in the external noise levels to occupants of an existing building*. Although caravans are not buildings as such, they are akin to them in that they provide a home to sensitive occupants just as a house or a flat does. Consequently, BS8233 does not appear appropriate to the circumstances of the case.

42. The appellant's witness also accepted that his assessed values of night time external LAmax would exceed the WHO threshold internal night time noise guidelines for Europe, assuming a 12-15dB insertion loss from an open window. It is reasonable, in my view, to assume that at least some of the caravan occupants effected would wish to have windows open at night for ventilation, particularly during the summer months. Consequently, the WHO methodology indicates that the proposed development would be likely to cause unacceptable harm to the living conditions of at least some neighbouring occupants as a result of noise.
43. In any event, the Council's assessment appears to reasonably apply BS4142 to the proposed scheme and uses the background noise assessments discussed above. It also takes into account mitigation via the use of a barrier. Compared with the background noise level of 28dB, the Council's witness calculates an excess of rating over the background sound level after mitigation of 14dB, the impact of which he described as very significant adverse. I have found no good reason to disagree. Indeed, I note that when asked during cross-examination to apply BS4142 to his own data, including his higher background noise level, the appellant's witness calculated an even higher figure of 21dB.
44. The evidence indicates that in order to further mitigate such noise, a barrier over 6.5m high would be likely to be required. While the height of such a barrier might be influenced by its siting and by its construction, it seems likely nonetheless that it would need to be of a significant height in order to be effective. It also seems likely that it would not only be a significantly high structure, but would also be long, involving returns to each end.
45. While such a structure does not form part of the proposals, from what I saw and heard during the appeal process it seems likely to be necessary even with careful site management. Notwithstanding any effects on the character and appearance of the area, a structure along these lines, in such close proximity to the properties at Heathfield Park and Moorland Park, would be very likely to have a significantly adverse effect on the living conditions of their occupants, in terms of light and outlook. Consequently, it would be inappropriate to leave this matter to be controlled by way of planning condition. Without such mitigation the noise resulting from the development would be likely to cause significant harm to the living conditions of at least some residents at night time.
46. For the reasons outlined above, the proposed development would be likely to cause significant harm to the living conditions of nearby residents due to night time noise. On this basis, it would conflict in this regard with Policy CS3 (Environmental impacts and flood risk assessment) of the Core Strategy.

#### *Biodiversity*

47. There are two distinct aspects to the biodiversity related main issue: the effect of the proposed development on water voles and common otters; and its effect on the North Somerset and Mendips Bats Special Area of (the SAC) by harming functionally linked habitat. There is also the further matter of Biodiversity Net Gain (BNG), which is dealt with as part of the planning balance a little later in my decision.
48. Regarding water voles and common otters, the evidence indicates that there is at least a likelihood of their presence on or within the vicinity of the appeal site.



- For instance, the Environmental Statement produced for the appeal development indicates that the site has the potential to support populations of both of these protected species. The Council's witness on this matter had observed water voles within reasonably close proximity to the site, while the appellant's witness advised that he expected otters would cross the site.
49. On that basis, there also appears to be a reasonable prospect that otters and water voles could be affected by the development. For instance, as a consequence of the proposal to clear rhynes to construct road crossings and to construct drainage outfalls, matters that do not appear to be directly assessed in the Environmental Statement.
50. Para 99 of Circular 06/2005: Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System states, amongst other things, that *it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.* It adds that *the need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted.*
51. For the reasons outlined above, there is a reasonable likelihood of water voles and otters being present and affected by the appeal development. In these circumstances, para 99 of the Circular goes on to say that *the survey should be completed and any necessary measures to protect the species should be in place, through conditions and/or planning obligations, before the permission is granted.* While I note that the Council does not appear to have requested any, the appellant's witness advised the Inquiry that no surveys had been carried out to establish the presence of otters and water voles.
52. I recognise that the site is in a reasonably poor condition and that the appeal development potentially offers an opportunity to deliver biodiversity enhancements, including in respect to otters and water voles. Nonetheless, in summary, there is a reasonable likelihood that water voles and otters are present, it has not been adequately demonstrated whether the appeal scheme would have an impact on these protected species or that any impacts could be mitigated, and, in such circumstances, it is not appropriate to grant planning permission subject to conditions intended to control such matters. Accordingly, in these respects, the appeal development is contrary to Policy CS4 (Nature conservation) of the Core Strategy and Policy DM8 (Nature Conservation) of the DMP.
53. Turning to bats, given the site's location relative to the SAC, combined with the site being comparatively dark and bearing in mind that the rhynes are likely to provide a source of insects, it seems likely that the site is functionally linked foraging habitat associated with the SAC. In this context and with reference to the advice of Natural England, the Council's criticism of the relevant surveys appears justified such that the scheme should be supported by more thorough survey work.
54. The results of such additional survey work could then inform the kind of *sensitive lighting strategy, including details of types and placement of luminaries, together with a plan modelling levels of light spill which*

*demonstrate that light spill will not exceed acceptable levels on bat habitat* referred to by Natural England in its consultation response in respect to the appeal scheme. Without such survey work, there is significant doubt regarding what effect the proposed development would have on the SAC via this likely associated foraging habitat, as functionally linked land. Moreover, there is also significant uncertainty over how effective the proposed mitigation for Lesser and Greater Horseshoe Bats would be.

55. Under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended), as competent authority, I am required to undertake an Appropriate Assessment of the appeal development on the basis of its Likely Significant Effects on the SAC as a European Site. Pursuant to this duty, for the foregoing reasons, I consider that there is a significant risk that the proposed development could lead to the loss of functionally linked habitat.
56. In these circumstances, it would be inappropriate to grant planning permission subject to conditions intended to control matters relating to additional survey work or further details of the development's lighting scheme. Consequently, in these respects, the appeal development is contrary to Policy CS4 of the Core Strategy and Policy DM8 of the DMP.

### **Planning Balance**

57. There are a number of considerations advanced as supporting a case in favour of granting planning permission for the appeal development. However, even if I were to adopt the appellant's best position on all of these matters, collectively, they would still be significantly and demonstrably outweighed by the harm identified to the living conditions of neighbouring residents alone. The identified likely effect of the development on otters and water voles alone would also significantly and demonstrably outweigh such combined benefits. The same is also true in terms of its likely effect on the SAC and bats alone.
58. People's living conditions and the safeguarding of protected species and their habitat are important, very weighty considerations recognised in the National Planning Policy Framework (the Framework) and in the development plan. In this case, even if the so-called tilted balance were to apply, individually, they clearly significantly and demonstrably outweigh the totality of the claimed benefits.
59. I do not, though, accept the appellant's position on all of these matters. As it does not affect the outcome of the appeal, it is not necessary for me to address them all here in any great detail. Nonetheless, I shall deal briefly with what I see as the main points of issue that have not been touched on above.
60. There is no good reason to regard DMP Policy DM30 as being out of date or to believe that it should attract reduced weight. The DMP was adopted in July 2016. While newer versions of the Framework have been published since then, the Government's policy as set out in the current Framework on matters relating to this Policy, such as parking and sustainable travel, are not significantly changed. Accordingly, as it must have been found to have been consistent with the Framework at the time it was adopted, Policy DM30 remains consistent with Government policy as contained in the current version of the Framework.

61. Unsurprisingly, therefore, I have not detected any significant inconsistency between Policy DM30 and the current Framework to justify it carrying anything other than full weight. Indeed, the objective of Policy DM30 is consistent with the Framework in terms of its role in encouraging public transport use over reliance on the private car.
62. Nor do I accept that 'events on the ground' have rendered Policy DM30 out of date. While I note the reference within the JLTP4 to park and ride in the context of the Airport, as outlined above, it does not require park and ride to be delivered to serve the Airport. Nor does it expressly identify a need for an Airport park and ride. Consequently, I see no compelling case for the publication of the JLTP4 to have caused Policy DM30 to become out of date.
63. I also note the evidence regarding how Policy DM30 has been applied, including in respect to enforcement matters. However, there is no substantiated evidence before me to indicate that the Council has adopted a policy of not enforcing against Airport car parking because it considers Policy DM30 to be out of date. Indeed, given that a similar policy is included in its emerging local plan, it appears more likely that the Council see it as being up to date and having a role to play in future. I recognise, nonetheless, that given the early stage of this emerging plan it currently carries only limited weight. Beyond the foregoing points I have found no other basis to conclude that Policy DM30 is out of date.
64. The extent of BNG claimed by the appellant appears to be overstated for the reasons identified by the Council's witness on this matter. In short, there appears to have been at least some double counting and, from the evidence before me, it is difficult to assess the extent to which BNG might be delivered in excess of Habitat Evaluation Procedure mitigation. For these reasons, if there were to be any BNG in this case, it could attract no more than limited weight in favour of the proposed development.
65. I have no compelling evidence to indicate that the proposed development would have a significant effect on highway congestion. Although there is evidence that it would lead to less traffic on the road network between the site and the Airport this reduction appears likely to be small and unlikely to have a significant effect on congestion. Consequently, even if there were to be an improvement in this regard the benefit would carry limited weight at most.
66. I also note the appellant's submissions that the appeal development would deliver improvements in air quality. Given that the evidence on which this claim is made is rather limited and as the claim was not advanced by a witness with expertise in the field of air quality, this matter cannot attract any more than limited weight in favour of the appeal development.
67. Insofar as the appeal development might lead to a reduction of parking in the Green Belt, this matter also attracts no more than limited weight in favour of the appeal development given that the existing and proposed car parking at the Airport has been found to be acceptable via the development management process, as has any car parking allowed by permitted development rights afforded planning permission via Government Order.
68. As identified above, I recognise that, as a matter of principle, competition can be positive, in this case particularly in terms of offering Airport customers greater choice. However, the appellant's contention that the Airport holds a

monopoly over parking appears to be at odds with its own evidence in that it already runs an Airport car parking service, which appears to operate in competition with the Airport's car parking business. Moreover, as outlined above, there is more to travel choice than the private car.

69. I have also been mindful of the evidence that the Council could potentially have taken steps to remove permitted development rights that allow off-Airport parking. The Council has not taken such action to date. Nor does there appear to be any reason to believe that it has any plans to do so. In any event, this matter does not affect the outcome of the appeal.
70. In conclusion on the planning balance, therefore, the appeal development would not accord with the Council's policy for the location of new development and would also be likely to have a detrimental effect on planned modal shift and the use of sustainable modes of travel. These are also very weighty material considerations. Moreover, it would be likely to have harmful effects on neighbouring residents' living conditions in terms of noise, on otters and water voles, and on the SAC and bats. For the reasons outlined above, each of these matters would, individually, significantly and demonstrably outweigh the totality of the appeal scheme's benefits that are claimed by the appellant.
71. Consequently, while in some respects the proposals have the potential to contribute positively to the sustainable development objectives as set out in the Framework, for instance via the shuttle service, the re-use of previously developed land and habitat enhancement, the appeal scheme would not be sustainable development in the terms of the Framework such that there is no presumption in its favour.

### **Conclusion**

72. For the foregoing reasons, therefore, the appeal is dismissed.

*G D Jones*

INSPECTOR

## APPEARANCES

### FOR THE APPELLANT:

Jonathan Ward – counsel for the appellant	Instructed by Amanda Sutherland, – Sutherland Property & Legal Services Limited
He called	
Ayan Chakravartty BEng (Hons) MSc MPhil MEnvSc MCIHT CSci	Noise - Aval Consulting Group Ltd
Carl Tonks BSc MSc FCILT MCIHT FIHE	Transport – cTc
Paul Diamond RHS Cert (Hort) BSc(Hons) MSc MCIEEM MArborA ALI	Biodiversity - Ecological Surveys Ltd
Amanda Sutherland LLb(Hons) PGDip LPC	Planning – Sutherland Property and Legal Services Limited

### FOR THE LOCAL PLANNING AUTHORITY<sup>1</sup>:

Timothy Leader - counsel for the Local Planning Authority	Instructed by Instructed by Richard Kent, Head of Planning, North Somerset Council
He called	
Richard Perkins BEng(Hons) CEng honFIOA	Noise - Mott MacDonald Ltd
Sarah Dale BSc (Hons) MRes MCIEEM	Biodiversity - Avondale Ecology
Neil Underhay MA	Planning – North Somerset Council

### FOR BRISTOL AIRPORT LIMITED:

Daisy Noble - counsel for Bristol Airport Limited	Instructed by Elizabeth Tones, Womble Bond Dickinson (UK) LLP
She called	
Scott Witchalls MSc CMILT MCIHT CTPP	Transport – Stantec UK
Alex Melling BA(Hons) MSc MRTPI	Planning – WSP Environment & Infrastructure Solutions UK Limited

### INTERESTED PERSONS:

Mr C Clease	Local Resident
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<sup>1</sup> Although Steve Thorne MSc BSc of North Somerset Council produced a proof of evidence and associated material regarding transport matters, he was not called to give oral evidence