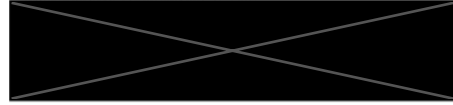


& Associates  
Limited

Chartered Town Planning  
& Development Consultants

Maple Gate  
Brampton Abbots  
Ross-on-Wye  
Herefordshire HR9 7JD



**Representations raised on behalf of HX Properties Ltd to Matter 1: Legal Compliance and General Plan-Making Issue 5 – Sustainability Appraisal (including Strategic Environmental Assessment) in advance of the Examination in Public into the Draft Crawley Borough Local Plan 2024-2040**

**November 2023**

**© TIM NORTH & ASSOCIATES LIMITED COPYRIGHT 2023**

**No part of this publication may be reproduced by any means without the permission of Tim North & Associates Limited**

**MATTER 1: LEGAL COMPLIANCE AND GENERAL PLAN-MAKING**

**Issue 5 – Sustainability Appraisal (including Strategic Environmental Assessment)**

Q1.16 Does the Sustainability Appraisal (SA) (Document KD.SA.01) adequately and reasonably assess the likely effects of the Policies and Proposals of the Plan against the SA objectives (issues) and test the preferred/selected policy approach against any reasonable alternatives?

Tim North M.Sc., B.Sc. (Hons) Dip. T.P. MRTPI, Eileen North BA  
Registered in England No. 2248021

Q1.17 Does SA adequately record why alternative adoptions have been discounted?

Q1.19 Ultimately, does the SA report demonstrate that the submitted plan is justified, in that it comprises an appropriate strategy, having assessed any reasonable alternatives?

### **Policy EC7**

Policy EC7 : “*Hotel and Visitor Accommodation*” taken from the Draft Crawley Borough Local Plan 2024-2040 (hereinafter referred to as DCBLP 2024-2040) is unarguably a form of development which in accordance with Chapter 7 of the NPPF 2023 along with the NPPG on “*Town Centres and Retail*”, is expected to be focussed in town centre locations first, and then if no town centre locations are available, to edge of centre locations and, if neither town centre locations or edge of centre locations are available, to out of centre locations (with preference for accessible sites which are well connected to the town centre). It is this underlying policy aim which should form the starting point of any SA/SEA .

The LPA has adopted an approach which misapplies and conflates the sequential test as it relates to hotel and visitor accommodation, preventing town centre locations from being afforded the necessary priority, with London Gatwick Airport occupying an out of centre location given equal status in term of providing the same development. In addition, and at variance with current national policy and guidance, the Council impose an added restriction of ensuring that on-airport hotel and visitor accommodation is also expected to meet the requirements of a separate policy, unrelated to issues regarding the sequential test, namely a need to meet the requirements of Policy GAT3, being directed at airport related parking.

It means that all hotel and visitor accommodation on land at London Gatwick Airport are considered to comprise part of a mixed or composite use, a view supported by recent on-airport hotel developments which indicate either an absence of, or restricted car parking provision, necessitating those staying at the hotel having to rely on either on-airport passenger car parking spaces or off-airport car parking facilities. In these circumstances Policy EC7 is emphatic in stating that the particular hotel or visitor accommodation “*must meet the requirements of Policy GAT3*”. This requires an applicant seeking on-airport hotel development also having to meet a demonstrable need in accordance with Policy GAT3, which given the provisions of the sequential test necessitates having to show an absence of more preferable town centre or edge of centre locations suitable for the same use. This situation arises because hotels on Operational Land within London Gatwick Airport do not benefit from 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).

It is only in cases where the car parking element at a hotel forms part of a mixed or composite use associated with long term off-airport car parking that planning permission is required, since otherwise the car parking facility would remain incidental to the hotel, in much the same way as car parking associated with a Class E(g)(i) office is considered incidental to the primary use, and hence not requiring planning permission.

Similar circumstances resulting in reduced significance afforded to the sequential test apply to hotel and visitor accommodation at Manor Royal as part of Policy EC7. In these circumstances the applicant is required to demonstrate that the particular hotel and visitor accommodation would cater specifically for the business needs of the same employment area, including meeting the needs of Policy EC3. This is despite the fact that no mention is made of hotel and visitor accommodation in Policy EC3 or its supporting text, being a use considered compatible with the area's economic function or providing supporting business facilities and staff amenities.

The importance to be attached to the sequential test in Crawley Borough Council's administrative area cannot be divorced from the aims set out in the "*One Town Crawley's Economic Recovery Plan 2022-2027*" being to secure a vibrant neighbourhood and sustainable economic future for the town centre via significant qualitative investment, at a time when considerable funding is to be directed to delivering necessary infrastructure to improve the town's connectivity and skills base. Policy EC7 through its dilution of the sequential test is inconsistent with the aims of re-invigorating the vitality and viability of Crawley Town Centre, to the extent of discouraging valuable investment at a time when government policy is actively seeking to support investment in town centres to arrest their decline.

As a consequence, it is not considered that the SA/SEA adequately and reasonably assesses the likely effects of policies and proposals of the plan against SA objectives. The basis of the SA/SEA does not provide the necessary impetus enshrined in Government policy and guidance of concentrating hotel and visitor accommodation in Crawley Town Centre, as part of an overarching aim of preventing its decline.

Options 1 and 3 set out in the Sustainability Appraisal/ Strategic Environmental Assessment relating to Policy EC7 are not considered to be appropriate strategies as part of any reasonable alternatives, with the former simply suggesting that no specific policy be included relating to visitor accommodation, whilst Option 3 seeks a policy of including visitor accommodation but without the restriction on off-airport car parking at off-airport hotels. Both options fall foul of the underlying aims of current national policy and guidance and the significance to be afforded to the sequential test.

Option 2, being the chosen option, is predicated in its selection in ensuring compliance with a policy directed at airport related parking, as opposed to concentrating attention on appropriate locations for hotel and visitor accommodation. It follows that reasonable alternatives have not been considered in the case of Policy EC7, with no information provided as to why alternative options have been discounted, despite being advanced at the time of representations being raised by my clients to the Draft Crawley Borough Local Plan Submission Consultation version in June of this year.

No Option has been promoted where preferential treatment in terms of the location for hotel and visitor accommodation is provided in Crawley Town Centre in accordance with the sequential test; and neither is there an option which permits hotel and visitor accommodation on-airport, but only in cases where a demonstrable need is shown to exist, and where there are no other more sequentially preferable locations available.

As a consequence, the strategy on which Policy EC7 has been devised is not considered appropriate, with issues surrounding what may be considered a sustainable location for airport related car parking having been imported, with disproportionate weight afforded to those considerations whose primary purpose is to ensure the vitality of town centres.

### **Policy GAT3**

The SA/SEA forming 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's boundary, and Option 2 to allow car parking in other areas.

The Crawley Borough Local Plan was the subject of a Section 113 challenge under the Planning and Compulsory Purchase Act 2004 to the SA/SEA concerning Policy GAT3 at which time the Planning Policy Manager for the Borough Council indicated that Option 2 was a relaxation of Policy GAT3. This was described by Mr Justice Collins in the resultant unsuccessful High Court challenge on 30<sup>th</sup> November 2016 as being "*on the face of it simply an off-airport parking policy*".

My clients did not raise representations to the earlier draft versions of the Crawley Borough Local Plan 2015-2030, despite identical scores for both Options being reached when measured against the same individual Sustainability Objectives, now relied upon by the Borough Council in the current SA/SEA. At the time of publication of the earlier draft versions of the emerging Borough Local Plan, Holiday Extras Limited were involved in commercial negotiations with Gatwick Airport Ltd concerning contractual arrangements to provide on-airport car parking on behalf of the

airport owner; a sensitive subject which if objections had been raised, would have resulted in any concession agreements being terminated. This situation was found by Mr Justice Collins in the High Court challenge to militate against my client's challenge, with the Judge stating:-

*“26. ...In particular I have regard to the absence of any submissions made by anyone, in particular by the applicants before the SEA on-airport parking with limitation was a proper approach to the issue of parking for the airport, it was not necessary to go into the details and possible limitations of off-airport parking. That could and should have been raised by those who took a contrary view. Certainly, the off-airport alternative was sufficient to enable those who wished to do so to suggest what might be regarded as tinkering with off-airport, that is to say the imposing of limitations of one sort or another. I do not consider it was necessary for the Council in order to comply with the obligations under Regulation 12.2 [Environmental (Assessment of Plans & Programmes) Regulations 2004] to specify particular ways in which off-airport parking could be approached as an alternative to on-airport parking in the plan. “*

In contrast to this earlier situation my clients have raised representations at each stage of the SA/SEA relating to the emerging DCBLP 2024-2040. An earlier January 2020 version of Option 2 set out in the emerging SA/SEA relating to Policy GAT3 did not include on-airport provision.

In the case of the DCBLP 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 access transport to the airport within the airport boundary. Option 2 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.

In considering these two options, two important considerations are required to be taken into account. Firstly, the May 2022 Section 106 Planning Obligation entered into between Crawley Borough Council, West Sussex County Council and Gatwick Airport Ltd contains Obligation 5.6.1 which is reproduced below, from which it can be seen that the target figure of 48% of passengers travelling to the airport by public transport involves an assessment of **combined on-and off-airport supply** and not simply on-airport passenger car parking spaces.

*“5.6.1 Provides sufficient by no more on-Airport public 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 the end of 2024.”*

This clause contained in an up-to-date Section 106 Planning Obligation clearly points to the need for a joint approach involving long term off-airport car parking providers. The contents of

paragraph 3.7.3 of Topic Paper 2: Gatwick Airport dated May 2023 does not properly set out Obligation 5.6.1 in that it misinterprets the clause by omitting any reference to off-airport car parking supply.

More importantly, there is no need to justify “*a demonstrable need in the context of proposals for achieving a sustainable approach to surface transport access to the airport*” in the case of on-airport passenger related car parking provision relating to the two options. That is because, in a similar way to the reasoned justification to Policy GAT3, it is based on a false premise with no account taken of 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 permitted development rights for which no express planning permission is required. It follows that the basis behind the same two alternative options is fundamentally flawed.

To these considerations should be added that there are a number of long term off-airport car parking applications which have been granted permission outside the boundary of London Gatwick Airport which have been found to occupy “*sustainable locations*”, whilst at the same time offering “*customer choice*”. These appeal decisions involve sites in Crawley Borough and Mid Sussex District Councils’ administrative areas, having been endorsed in Case Officers’ reports where temporary permissions have been granted on sites outside the “*Operational Land*” of London Gatwick Airport.

Equally relevant in this context is that no evidence has been produced to demonstrate that any long term off-airport car parking use has prevented the modal share in favour of public transport being reached, whether contained in an ASAS or a Section 106 Planning Obligation, upon which the two reasonable alternative options are based. In addition, to the extent it is recognised there will always be a proportion of non-transfer passengers who will choose to access London Gatwick Airport by car, along with the requirement to accord with the provisions of the May 2022 Planning Obligation, dictates there is no reason why in terms of the sustainability objectives of minimising climate change and adapting to climate change, or in terms of promoting sustainable journeys, a double minus should be scored in respect of Option 2, compared to Option 1. It is for these reasons that Option 2 is not considered to amount to a reasonable alternative.

A more appropriate alternative would be what I have 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 access to the airport. This would avoid the duplication in respect of on-airport passenger car parking in both Options 1 and 2.

In the case of Option X, it is contended that the sustainability objective scores would at their worst, be no different than the sustainability scores set out in Option 1 of the SA/SEA of May 2023.

The importance of introducing Option X is that neither Option 1 nor Option 2 considers the impact of the Northern Runway proposal the subject of the current DCO application, which is clearly envisaged to take place during the period governed by the DCBLP 2024-2040. The contention drawn in the DCO application that only 1,100 proposed additional spaces are required on-airport to cater for an 80.2mppa by 2047 is likely to be the subject of challenge, irrespective of the increase in likely sustainable modes of access to the airport.

There are, in my client's view, uncertainties with an absence of any contingency arrangements, in the event the additional 1,100 car parking space figure required in conjunction with the Northern Runway project, were found to be insufficient to meet on-airport car parking demand in the future. In its representations concerning Gatwick Green, Gatwick Airport Ltd have suggested that in the event there is a need for a second runway, (i.e. irrespective of bringing the Northern Runway into routine operation) a total of 95,750 spaces would be required at a throughput of 95mppa. These figures are taken from "GAL's *Second Runway Operational Efficiency Master Plan*" Appendix A5 of the Updated Scheme Design Submission issued in May 2014 to the Airports Commission.

These statistics, aside from taking no account of more recent efficiencies in long stay passenger car parking and innovative new initiatives in parking management through the use of robotic automation, are substantially different from the estimate of only an additional 1,100 spaces set out in the Environmental Statement to the DCO application. If anything, they confirm the need for contingency arrangements to be in place in the selection of reasonable alternatives with respect to the options relating to Policy GAT3. Traditional long term off-airport car parking based on the park-and-ride model, is well suited to meet any shortfall.

