

16 February 2011

Mr Ian Ginbey  
Macfarlanes LLP  
20 Cursitor Street  
London  
EC4A 1LT

Our Ref: APP/Q3820/A/08/2092933  
Your Ref: IDG/CEEB/598379

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL BY TAYLOR WIMPEY UK LTD AND BEAZER HOMES (REIGATE) LTD  
LAND AT NORTH EAST SECTOR, CRAWLEY  
APPLICATION: REF CR/98/0039/OUT**

1. I am directed by the Secretary of State to say that consideration has been given to the report (dated 8 October 2009) of the Inspector, Mr Martin Pike BA MA MRTPI, who held a public local inquiry between 2 and 26 June 2009 into your clients' appeal against a failure by Crawley Borough Council (the Council) to determine an application for outline planning permission for up to 1,900 dwellings, 5,000 sq m of use class B1, B2 and B8 employment floorspace, 2,500 sq m of net retail floorspace, a local centre/community centre (including a community hall), a new primary school, recreational open space, landscaping, the relocation of the 132kv overhead power line adjacent to the M23, infrastructure and means of access on land at North East Sector Crawley in accordance with application number CR/98/0039/OUT, dated 19 January 1998.
2. The Inspector, in his report of 8 October 2009 (IR), recommended that the appeal be allowed and planning permission granted, subject to conditions. The former Secretary of State wrote to you on 26 November 2009 and, for the reasons set out in that letter, indicated that he was minded to agree with the Inspector and allow the appeal, subject to his concerns about some of the proposed conditions being satisfactorily addressed. He therefore deferred his decision on the appeal to enable the parties to address those concerns. Copies of the letter of 26 November 2009 (MT) and the Inspector's Addendum Report of 5 May 2010 (AR) are enclosed and these form part of his decision in this case. A copy of the IR, which has been circulated to parties previously, is not enclosed with this letter, but will be made available upon request from the address at the foot of the first page of this letter.

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## **Matters arising since the former Secretary of State's letter of 26 November 2009**

3. The MT letter stated that the then Secretary of State was minded to allow the appeal, subject to his concerns about some of the proposed conditions, as set out in paragraph 35 of that letter, being satisfactorily addressed. The representations he received in response to his MT letter were circulated to the main parties under cover of a letter dated 2 February 2010, and the further representations received were circulated to the main parties under cover of a letter dated 5 March 2010.
4. Having given careful thought to all the comments made by interested parties, the then Secretary of State took the view that an AR from the Inspector would assist him in his determination of this case, and that report was commissioned on 15 April 2010.
5. Subsequently, a further representation, dated 8 July 2010, was received from Berwin Leighton Paisner, on behalf of Gatwick Airport Limited. The Secretary of State gave careful consideration to this letter and concluded that, given the potential significance to this particular case of the revocation of the South East Plan (referred to below), and the statements "We will cancel the third runway at Heathrow" and "We will refuse permission for additional runways at Gatwick and Stansted" in *The Coalition: Our Programme for Government*, issued by the Government in May 2010, and the subsequent announcement on the South East Airports Task Force, he should seek the parties' views on these matters. Accordingly, he wrote to all the parties on 23 July 2010, inviting representations on these matters. Those representations were then circulated to the main parties under cover of a letter dated 18 August 2010.
6. The Secretary of State has taken account of all the representations he has received in reaching his decision. A schedule of the representations is attached at Annex A. Most representations have already been circulated to the main parties, and the Secretary of State does not consider it necessary to attach them here, but copies will be provided on application to the address at the foot of the first page of this letter or from PCC@communities.gsi.gov.uk.
7. Paragraph 14 of the MT letter set out the documents which comprised the development plan at the time it was issued on 26 November 2009. On 6 July 2010 the Secretary of State revoked all Regional Strategies (RSs). His action was challenged in the High Court and following the judgment of the Court on 10 November 2010 in *The Queen on the application of Cala Homes (South) Limited v Secretary of State for Communities and Local Government* [2010] EWHC 2866 (Admin), the South East Plan (which is the RS for the South East) is part of the development plan and is material to this case.
8. The Secretary of State has since made clear that it is the Government's intention to revoke RSs, and the provisions of the Localism Bill which is now before Parliament reflects this intention. Whilst he has taken this matter into account in determining this case he gives it little weight at this stage of the parliamentary process. Accordingly, he does not consider it necessary to refer

back to the parties seeking their views on its implications before reaching his decision.

9. For the avoidance of doubt, the development plan now comprises: the saved policies of the Crawley Borough Local Plan (CBLP), adopted in April 2000; the Crawley Borough Local Development Framework Core Strategy (CBCS), adopted in October 2008; and the SEP, published in May 2009. The Secretary of State considers that the development plan policies most relevant to this appeal are those set out by the Inspector at IR4.2 – 4.9.
10. *The Coalition: Our Programme for Government* was issued in May 2010 and stated that “We will cancel the third runway at Heathrow” and “We will refuse permission for additional runways at Gatwick and Stansted”. The Secretary of State for Transport issued a written ministerial statement on 15 June 2010 announcing the establishment of a South East Airports Task Force. The Secretary of State has taken both the coalition statement and the written ministerial statement into account as material considerations in his determination of the appeal.

## **Main Issues**

### Compatibility of North East Sector and a second runway at Gatwick

11. Paragraph 18 of the MT letter referred to the Inspector’s comments on airports policy set out at IR11.5 – 11.6. In addition to the Inspector’s comments in those paragraphs, the Secretary of State has had regard to IR11.4(i) and the representation from Berwin Leighton Paisner dated 6 August 2010, both of which point to the agreement preventing a second Gatwick runway before 2019. He observes that the 2003 Air Transport White Paper (ATWP) supports new runways at Stansted and Heathrow airports and, as a contingency, also requires land to be safeguarded for a second runway at Gatwick. He has had regard to the fact that *The Coalition: our programme for government* does not support additional runways at any of these three airports. However, as made clear in its foreword, that document deals with a five year programme for government. The Secretary of State observes that the ATWP, which sets out a long-term national strategy for the sustainable development of air travel to 2030, remains extant. He concludes that long-term national aviation policy as it relates to Gatwick airport has not changed since the inquiry and that, whilst a second runway at Gatwick could not come about for some years, it cannot be ruled out as a longer term possibility.

### *Effect of noise from a second runway at Gatwick*

12. The Secretary of State observes that, although the ATWP does not specifically require mixed mode (or any other mode) operation to be safeguarded, the forecast maximum capacity figure for the airport of 83 million passengers per annum is taken from earlier studies which arrive at this figure on the basis of mixed mode operation (IR11.9). He views the Inspector’s statement that the ATWP seeks to safeguard a wide-spaced runway operated in mixed mode (IR11.178 as amended by AR paragraph 13) in that context.

13. The Inspector's AR addressed the concerns raised by the parties on the interpretation of the evidence given at the inquiry in relation to average noise contours and the evidential base for conclusions on night flights. The Inspector used the AR to clarify his intended meaning in paragraphs IR11.34, IR11.144 and IR11.178 of his IR, and to provide fuller information about his thinking on night flights. Paragraphs 19 and 38 of the MT letter also dealt with these issues.
14. Dealing first with the issue of night noise, the Secretary of State has given careful consideration to the representations on night noise referred to at AR:A3 and to the Inspector's comments at AR: A16 – A19. In the light of this consideration, he concludes that it is likely, but not certain, that all night flights would continue to operate from the northern runway. Having also had regard to AR: A20, the Secretary of State sees no reason to disagree with the Inspector (AR: A21) that any further constraint on flexibility that would arise specifically in relation to night operations does not add materially to the wider arguments about flexibility.
15. Having gone on to give careful consideration to the representations on noise contours referred to at AR: A3 and to the Inspector's comments at AR: A4 – A15, the Secretary of State agrees with the Inspector's amendments to IR11.178 (as set out at AR: A13), the deletion of the words "when assessed against current guidance" at the end of IR11.34 (as set out at AR: A15), and to the change to IR11.144 (proposed in footnote 1 of the AR). In the light of these amendments, the Secretary of State agrees with the Inspector's conclusion that, in the event of a wide-spaced second runway being operated in mixed mode, average noise levels above 60dB(A) would be endured by 60% of North East Sector residents (AR: A13). He further agrees that the most significant adverse noise effects would be experienced for 27% of the time, on average, and that sound insulation would provide acceptable internal living and teaching environments (AR: A13). Overall, the Secretary of State does not depart from the view (MT19) that, whilst for the noisier parts of the site the scheme would be close to the limits of acceptability, the development would not necessarily be unacceptable in terms of noise.

#### *Extent to which North East Sector would prejudice a second runway*

16. In relation to paragraphs 21 and 22 of the MT letter, which states that Government support for new runways at Stansted and Heathrow is unequivocal, the Secretary of State observes that the position has now changed, and the current position is as set out at paragraphs 10 and 11 above. The Secretary of State takes the view that, whilst a second runway at Gatwick could not come about for some years, it cannot be ruled out as a longer term possibility.

#### Housing

##### *Housing needs of Crawley and Gatwick sub-region*

17. Paragraphs 23 and 24 of the MT letter set out the Secretary of State's conclusions in relation to housing land supply. The Secretary of State has had regard to the evidence on housing land supply submitted by the parties

following his letter of 23 July, including Crawley's 2009 - 10 Annual Monitoring Report, but he sees no reason to depart from the conclusions set out at paragraphs 23 and 24 of the MT letter. He notes, however, that the final sentence of paragraph 23 of the MT should refer to the appellant and not to the Council.

#### Compliance with ATWP

18. In relation to paragraph 29 of the MT, which dealt with the likelihood of a second runway being required at Gatwick, the Secretary of State has set out his position on this matter at paragraph 11 above – he has concluded that a second runway at Gatwick could not come about for some years, but that it cannot be ruled out as a longer term possibility. In the Secretary of State's view, it remains the case that the appeal scheme would place no physical impediment in the way of a second wide-spaced runway, and the sole concern remains the wider issue of noise on the surrounding residential communities (MT29).

#### Transport

19. With regard to his conclusions in paragraph 32 of the MT, the former Secretary of State cited the reasons set out by the Inspector in IR11.157. This should have read IR11.156.

#### Conditions

20. The Secretary of State has given careful consideration to all the comments about conditions which he received following the MT letter of 26 November 2009. In a joint representation dated 19 January 2010, your clients, Crawley Borough Council, and West Sussex County Council proposed a number of amendments to conditions in order to address the concerns set out in paragraph 35 of the MT letter. In addition, those parties proposed some additional amendments to conditions to ensure consistency within the scheme's conditions. The Secretary of State has considered all those proposed amendments and is satisfied that, subject to the further minor changes set out below, conditions can now be framed in a manner which satisfies the concerns identified in paragraph 35 of the MT letter.
21. The further minor amendments, which are incorporated within the conditions at Annex B are as follows:
  - As part (iv) of conditions 46 and 47 relates to the provision of street lighting, the proposed addition of the words "and are open to traffic" is not appropriate. These conditions have been amended so that the requirement for the street lighting to be provided is applied to part (iv); and
  - Condition 62 has been expanded so that it reflects the definitions in PPS3.
22. Berwin Leighton Paisner, on behalf of Gatwick Airport Limited, identified a number of conditions not listed in paragraph 35 of the MT letter to which they considered his comments concerning precision and enforceability could also

apply. They also questioned the acceptability of so-called “scheme” conditions. The Secretary of State has considered these representations but is satisfied, having regard to the circumstances of this case, that the conditions, as amended, do accord with the policy tests.

23. The MT letter also requested that your clients and the local planning authority submit a jointly agreed list of approved plans, so that this could form part of a condition in the event that planning permission were to be granted. The list which was submitted in response has been incorporated into a new condition - number 68.
24. The Secretary of State concludes that the conditions set out at Annex B are reasonable and necessary and that they comply with the policy tests in Circular 11/95.

#### Other matters

25. The Secretary of State considers that the other matters raised in the representations he has received following the MT letter of 26 November 2009 are either not material or have already been considered adequately at the inquiry and have been taken into account by the Inspector and by him.

#### Overall conclusion

26. The former Secretary of State’s conclusions are set out at paragraphs 37 – 41 of the MT letter.
27. In relation to paragraph 38 of the MT letter, the Secretary of State considers that it remains the case that those arguments in favour of the proposal have to be weighed against the possible noise impact on the appeal development from a potential second runway at Gatwick and the extent to which the presence of housing on the site would further complicate the detailed consideration of a second runway and create pressure for a sub-optimal configuration or operation of that runway, with consequent lessening of the airport’s potential capacity. The Secretary of State has concluded at paragraph 11 above that long-term national aviation policy as it relates to Gatwick airport has not changed since the inquiry and that, whilst a second runway at Gatwick could not come about for some years, it cannot be ruled out as a longer term possibility. He considers that it remains the case that, in the event that a second runway was required, there are a number of options in terms of the configuration and operation of that runway and as set out at paragraph 15 above, in the light of the Inspector’s AR, he is of the view that, whilst for the noisier parts of the site the scheme would be close to the limits of acceptability, the development would not necessarily be unacceptable in terms of noise.
28. The Secretary of State sees no reason to depart from the conclusions on housing land supply and the scheme’s other benefits as set out at paragraph 37 of the MT. In relation to paragraph 39 of the MT letter, the Secretary of State is of the view that the proposed development would still provide significant benefits in terms of housing, and he is satisfied that these benefits outweigh the scheme’s potential adverse impacts. For the reasons given by the Inspector at

IR11.155, he sees no reason to attribute significant weight to the conflict with regard to development of a greenfield site.

29. In conclusion, having taken account of all material considerations, the Secretary of State takes the view that the scheme is in general compliance with the development plan and with national policy. He sees no reason to determine the appeal other than in accordance with the development plan and he concludes that the appeal should be allowed and outline planning permission granted.

#### Formal decision

30. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your clients' appeal and grants outline planning permission for up to 1,900 dwellings, 5,000 sq m of use class B1, B2 and B8 employment floorspace, 2,500 sq m of net retail floorspace, a local centre/ community centre (including a community hall), a new primary school, recreational open space, landscaping, the relocation of the 132kv overhead power line adjacent to the M23, infrastructure and means of access on land at North East Sector Crawley in accordance with application number CR/98/0039/OUT, dated 19 January 1998, subject to the conditions at Annex B.

#### Right to challenge the decision

31. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.
32. A copy of this letter has been sent to Crawley Borough Council. All other interested parties have been sent a notification letter.

Yours faithfully

**Christine Symes**

Authorised by the Secretary of State to sign in that behalf

**Schedule of correspondence****Correspondence received following the Minded To letter of 26/11/2009**

<b>Sender</b>	<b>Dated</b>
Ann-Maria Brown, Crawley Borough Council	21 January 2010
Berwin Leighton Paisner for Gatwick Airport Ltd	21 January 2010
Macfarlanes for the Appellants	19 January 2010
Jeremy Taylor, Cadia, Gatwick Diamond	7 December 2009
Macfarlanes for the Appellants	7 December 2009
R W Evans, Tandridge District Council	3 December 2009

**Correspondence received in response to the re-circulation letter of 2/2/10**

<b>Sender</b>	<b>Dated</b>
Berwin Leighton Paisner for Gatwick Airport Ltd	2 March 2010
Tandridge District Council	26 February 2010
Barry P Smith, West Sussex County Council	24 February 2010
Macfarlanes for the Appellants	19 February 2010

**Correspondence received in response to the re-circulation letter of 5/3/10**

<b>Sender</b>	<b>Dated</b>
Macfarlanes for the Appellants	15 March 2010
Berwin Leighton Paisner for Gatwick Airport Ltd	22 March 2010

**Additional correspondence received**

<b>Sender</b>	<b>Dated</b>
Berwin Leighton Paisner for Gatwick Airport Ltd	8 July 2010

**Correspondence received in response to the letter of 23/7/10**

<b>Sender</b>	<b>Dated</b>
Berwin Leighton Paisner for Gatwick Airport Limited	6 August 2010
Macfarlanes for the Appellants	12 August 2010
Crawley Borough Council	13 August 2010

**Correspondence received in response to the re-circulation letter of 18/8/10**

<b>Sender</b>	<b>Dated</b>
Berwin Leighton Paisner for Gatwick Airport Limited	3 September 2010
Macfarlanes for the Appellants	3 September 2010

## Conditions

- 1 The development hereby permitted shall not be carried out except in substantial accordance with the master plan drawing number CSA/667/020 Revision F ("the Masterplan") and the Design Statement dated July 2006 (as updated in May 2009). The development hereby permitted shall be built out at an average density of 41 dwellings per hectare in respect of the net residential area.
- 2 Prior to the submission of the first reserved matters application in respect of each phase of the development hereby permitted, a detailed design and access statement in respect of that phase shall have been submitted to and approved in writing by the local planning authority. Each detailed design and access statement shall demonstrate how the objectives of the Design Statement dated July 2006 will be met. Each phase of the development hereby permitted shall be carried out in accordance with the approved design and access statement in respect of that phase.
- 3 The phasing of the development hereby permitted shall be in accordance with, and in the order shown on, drawing number CSA/667/013-4 Revision E ("the Phasing Plan").
- 4 No more than 1900 dwellings shall be constructed on the site pursuant to this planning permission.
- 5
  - (i) Approval of the details of the siting, design and external appearance of any part of the residential development within each phase of the development hereby permitted and the landscaping associated with it (hereinafter called "the residential reserved matters") shall be obtained in writing from the local planning authority before that part of the residential development is commenced within that phase.
  - (ii) Approval of the details of the siting, design and external appearance of any part of the non-residential development within each phase of the development hereby permitted and the landscaping associated with it (hereinafter called "the non-residential reserved matters") shall be obtained in writing from the local planning authority before that part of the non-residential development is commenced within that phase.
  - (iii) The development shall not be carried out otherwise than in accordance with the approved details.
- 6
  - (i) Application for approval of the residential reserved matters and non-residential reserved matters in respect of phase 1 of the development hereby permitted (except the primary school as to which see (ii) below) shall be made to the local planning authority before the expiration of 3 years from the date of this permission.
  - (ii) Application for approval of the reserved matters in respect of the primary school hereby permitted shall be made to the local planning authority before the expiration of 5 years from the date of this permission.
  - (iii) Application for approval of the residential reserved matters and non-residential reserved matters in respect of phase 2 of the development

hereby permitted shall be made to the local planning authority before the expiration of 5 years from the date of this permission.

(iv) The first application for approval of the reserved matters in respect of that part of phase 2 of the development hereby permitted which is located to the east of Balcombe Road shall include details of the proposals for the relocation of the 132KV overhead power line.

(v) Application for approval of the residential reserved matters and the non-residential reserved matters in respect of each of phases 3 and 4 of the development hereby permitted shall be made to the local planning authority before the expiration of 6 years from the date of this permission.

7 Phase 1 of the development hereby permitted shall be begun either before the expiration of 3 years from the date of this permission, or before the expiration of 2 years from the date of approval of the last of the residential reserved matters or the non-residential reserved matters (as the case may be) to be approved in respect of that phase (excluding the reserved matters relating to the primary school referred to in condition 6(ii) above), whichever is the later.

8 Plans and particulars submitted pursuant to condition 5 above shall include the following details:

- (i) any proposed access road(s) including details of horizontal and vertical alignment;
- (ii) the layout, specification and construction programme for (1) any internal roads not covered by (i) above, (2) footpaths, (3) parking and turning areas (including visibility splays), (4) cycle parking areas and (5) cycle storage facilities;
- (iii) the positions, design, materials and type of boundary treatment (including all fences, walls and other means of enclosure) to be provided;
- (iv) finished ground levels for all hard landscaped areas, footpaths and similar areas, including details of all surfacing materials, street furniture, signs, lighting, refuse storage units and other minor structures;
- (v) contours for all landscaping areas, together with planting plans and schedules of plants, noting species, sizes and numbers/densities, details of all trees, bushes and hedges which are to be retained and a written specification for the landscape works (including a programme for implementation, cultivation and other operations associated with plant and grass establishment); and
- (vi) lighting to roads, footpaths and other public areas.

9 The particulars submitted pursuant to condition 8(v) above shall include:

- (i) a plan showing the location of, and allocating a reference number to, each existing tree on the site which has a stem with a diameter (when measured over the bark at a point 1.5 metres above ground level) exceeding 75mm, identifying which trees are to be retained and the crown spread of each retained tree;

- (ii) details of the species, diameter (when measured in accordance with (i) above), approximate height and an assessment of the health and stability of each retained tree;
- (iii) details of any proposed topping or lopping of any retained tree; and
- (iv) details of any proposed alterations in existing ground levels and of the position of any proposed excavation within the crown spread of any retained tree.

10 Before each phase of the development hereby permitted is commenced a construction management plan in respect of that phase shall have been submitted to and approved in writing by the local planning authority. Each construction management plan shall include the following matters:

- (i) provision for plant and stacks of materials;
- (ii) details of vehicle wheel cleaning facilities to be provided;
- (iii) provision for the temporary parking of vehicles and for the loading and unloading of vehicles; and
- (iv) provision for the segregation and recycling of waste generated on the site during construction.

Construction of each phase of the development shall not be carried out otherwise than in accordance with each approved construction management plan.

11 Before the development hereby permitted is commenced, details of the design of the central parkland and associated open space, as shown on the Masterplan, together with proposals for their future management (covering a period of no less than 15 years), long term design objectives and long term management responsibilities shall have been submitted to and approved in writing by the local planning authority. No more than 500 dwellings shall be occupied until the central parkland and associated open space have been laid out in accordance with the approved details. The central parkland and open space shall be subsequently managed in accordance with the approved details.

12 Before the development hereby permitted is commenced, a landscape management plan (covering a period of no less than 15 years), in respect of all the land within the red line as shown on the Masterplan, shall have been submitted to and approved in writing by the local planning authority. The landscape management plan shall include a programme for implementation, long term design objectives, long term management responsibilities and maintenance schedules for all landscape areas (including woodlands and other incidental areas) other than privately owned domestic gardens. The development shall be carried out in accordance with the approved landscape management plan.

13 No phase of development shall commence until all the existing trees/ bushes/hedges to be retained within (and immediately adjacent to) that phase, as approved pursuant to condition 5 above, have been protected by a fence erected in accordance with the guidance contained in BS5837:2005. Within the areas so fenced off the existing ground level shall be neither raised nor lowered and no materials, temporary buildings,

plant, machinery or surplus soil shall be placed or stored within such areas without the prior written approval of the local planning authority. If any trenches for services are required in the fenced off areas they shall be excavated and backfilled by hand and any tree roots encountered with a diameter of 25mm or more shall be left unsevered.

- 14 Before the development hereby permitted is commenced, a biodiversity management plan in respect of all the land within the red line as shown on the Masterplan shall have been submitted to and approved in writing by the local planning authority. The biodiversity management plan shall be based upon the mitigation and management measures contained within Table 19.1 of Chapter 19 of the Environmental Statement dated June 2006 and shall include a programme for implementation together with proposals for the following:
- (i) the creation of habitats (including woodlands, grasslands and ponds) and their enhancement and management;
  - (ii) the conservation and enhancement of the Gatwick Stream including the provision of a buffer zone 60m wide, as identified on the Masterplan;
  - (iii) compensation and mitigation measures for the loss of any habitats (including woodlands, hedgerows and ponds);
  - (iv) the conservation of protected species including Bats, Dormice, Great Crested Newts, Reptiles and Badgers; and
  - (v) the prevention of light spill into any watercourse, and adjacent river corridor habitat and standing water habitats, including Ballast Hole Lake and its adjacent wooded vegetation.

The development hereby permitted shall be carried out in accordance with the approved biodiversity management plan.

- 15 Any water crossings to be provided within the development hereby permitted shall be by clear spanning structures (from banktop to banktop) so as not to impede the river corridor and to allow the migration of both channel and bank species.

- 16 Before the development hereby permitted is commenced, a detailed drainage strategy in respect of all the land within the red line as shown on the Masterplan shall have been submitted to and approved in writing by the local planning authority. For the purposes of this condition the strategy shall be based upon the principle of sustainable drainage systems ("SUDS") as set out in Planning Policy Statement 25: Development and Flood Risk (2006) (or any revision or replacement of it) and shall include the following:
- (i) details of compensatory flood storage works;
  - (ii) a programme for implementation; and
  - (iii) proposals for the subsequent management and maintenance of the drainage system including any arrangements for adoption by any public authority or statutory undertaker.

The development hereby permitted shall be carried out in accordance with the approved drainage strategy.

- 17 No spoil or materials shall be deposited or stored on any part of the site which lies within the 1 in 100 year flood plain, as shown on drawing number CS/000916/Figure 1 Revision A.
- 18 Any walls or fencing which are constructed within the 1 in 100 year flood plain, as shown on drawing number CS/000916/Figure 1 Revision A, shall be designed to be permeable to flood water.
- 19 Before the development hereby permitted is commenced, an archaeological evaluation shall have been carried out in accordance with a specification previously submitted to and approved in writing by the local planning authority. For the purposes of this condition, the specification shall include proposals for a programme of further archaeological excavation and recording if archaeological remains are identified.
- 20 Before the development hereby permitted is commenced, a scheme to deal with any contamination associated with the former abattoir site shall have been submitted to and approved in writing by the local planning authority. The scheme shall supplement information contained within Chapter 16 of the Environmental Statement dated June 2006 and shall include an investigation and risk assessment to identify the extent of contamination and any proposed remediation measures. The development hereby permitted shall not be commenced until the approved scheme has been completed.
- 21 No dwelling hereby permitted shall be occupied until a design assessment in respect of that dwelling has been submitted to and approved in writing by the local planning authority. The assessment shall demonstrate the basis upon which the dwelling shall achieve at least Level 3 of the Code for Sustainable Homes. Each dwelling shall be constructed in accordance with the approved design assessment which relates to that dwelling. Unless otherwise approved in writing by the local planning authority, no dwelling hereby permitted shall be occupied unless a final Code Certificate certifying that at least Code Level 3 has been achieved, in respect of that dwelling, has been submitted to the local planning authority.
- 22 Before the construction of any non-residential building hereby permitted is commenced a scheme for the inclusion of renewable energy technologies to achieve a “very good” rating pursuant to the Building Research Establishment Environmental Assessment Method, in respect of that building, shall have been submitted to and approved in writing by the local planning authority. Unless otherwise approved in writing by the local planning authority, no part of any non-residential building hereby permitted shall be occupied until a copy of a post-construction completion certificate, verifying that that building has achieved a “very good” rating, has been submitted to the local planning authority.
- 23 At least 10% of the energy supply of the development shall be secured from decentralised, renewable or low carbon energy sources (as described in the glossary of Planning Policy Statement 1: Planning and Climate Change (December 2007)). Details of a timetable of how this is to be achieved across the whole site, including details of physical works on site, shall be submitted to the local planning authority prior to or accompanying the first reserved matters application which is submitted pursuant to

condition 5. The development hereby permitted shall not be commenced until the details have been approved by the local planning authority. The approved details shall be implemented in accordance with the approved timetable and subsequently retained as operational.

24 Before each phase of the development hereby permitted is commenced a scheme identifying the size/extent, specification, location, timing of delivery and proposals for the future management of open space and play space (including local areas of play, local equipped areas of play, playing fields and other sports pitches) in respect of that phase shall have been submitted to and approved in writing by the local planning authority. For the purposes of this condition each scheme shall be in accordance with the standards of the National Playing Fields Association. Each phase of the development shall not be carried out otherwise than in accordance with the approved scheme.

25 No more than 200 dwellings within the development hereby permitted shall be occupied until the playing fields within the school site, as shown on the Masterplan, have been laid out and are available for use.

26 No more than 280 dwellings within the development hereby permitted shall be occupied until the neighbourhood equipped area of play, as shown on the Masterplan, has been completed and is available for use.

27 No more than 1250 dwellings within the development hereby permitted shall be occupied until the playing fields (and any associated car parking and changing facilities) in the south west corner of the site, as shown on the Masterplan, have been laid out and are available for use.

28 Before commencement of construction of the local centre within the development hereby permitted, as shown on the Masterplan, a scheme identifying (a) the facilities to be provided within the local centre and (b) the size/extent/content of those facilities shall have been submitted to and approved in writing by the local planning authority. For the purposes of this condition the scheme shall include proposals to secure the following facilities within the local centre:

- (i) retail floorspace of no more than 2,500 square metres (net);
- (ii) a public library of no less than 146 square metres;
- (iii) a health centre of no more than 500 square metres;
- (iv) a recycling centre;
- (v) a covered transport waiting area;
- (vi) public toilets;
- (vii) a children's centre/play centre of approximately 90 square metres plus ancillary facilities (including a food preparation area and toilets); and
- (viii) associated parking.

No more than 1000 dwellings within the development hereby permitted shall be occupied until (1) at least 50% of the retail floorspace approved pursuant to (i) above and (2) each of the facilities listed at (ii) - (viii) (inclusive) above and (3) any other facilities included within the approved scheme, have been completed in accordance with the approved scheme.

No more than 1500 dwellings within the development hereby permitted shall be occupied until all the retail floorspace approved pursuant to (i) above has been completed.

- 29 Before commencement of construction of the community centre within phase 2 of the development hereby permitted, as shown on the Masterplan, a scheme identifying the facilities to be provided within that centre shall have been submitted to and approved in writing by the local planning authority. For the purposes of this condition the scheme shall include proposals to secure the following:
- (i) a youth facility (including a community hall) of no more than 300 square metres;
  - (ii) changing facilities of no more than 300 square metres and related car parking;
  - (iii) other community facilities and/or ancillary public uses of no more than 100 square metres;
  - (iv) the playing fields associated with the community centre as shown on the Masterplan;
  - (v) car parking associated with (i) and (iii) above.

No more than 500 dwellings within the development hereby permitted shall be occupied until the facilities listed at (ii) and (iv) above have been completed in accordance with the approved scheme. No more than 800 dwellings within the development hereby permitted shall be occupied until the facilities listed at (i), (iii) and (v) above have been completed in accordance with the approved scheme.

- 30 No phase of the development hereby permitted shall be commenced until a scheme for the location and installation of fire hydrants within that phase has been submitted to and approved in writing by the local planning authority. For the purposes of this condition each scheme shall be in accordance with the Guidance Note: The Provision of Fire Hydrants and an Adequate Water Supply for Fire Fighting as published by West Sussex Fire and Rescue Services (as amended from time to time). No building hereby permitted shall be occupied until the fire hydrants) required to serve that building has been installed in accordance with the approved scheme.

- 31 The development hereby permitted shall not be commenced until a scheme for the provision of new fire and rescue infrastructure to serve the development hereby permitted, as provided for in the West Sussex County Council Capital Programme for Fire and Rescue Services in the period to 2016 has been submitted to and approved in writing by the local planning authority. The scheme shall include a programme for its implementation and shall have regard to document reference numbers R/WSCC/02A, R/WSCC/02B and R/WSCC/02C. The scheme shall be carried out as approved.

- 32 Before the development hereby permitted is commenced, a scheme to secure the provision of primary school and secondary school places shall have been submitted to and approved in writing by the local planning authority. For the purposes of this condition the scheme shall substantially accord with (1) the Education Position Statement dated June 2009 and (2)

the details set out in document reference numbers R/WSCC/02C and R/WSCC/04 and shall include the following details:

- (i) the mechanism (including the timing and phasing of delivery) by which a two form entry primary school (and associated community facility/interview room) shall be provided on the school site;
- (ii) the mechanism (including timing) by which the demand for 100 secondary and sixth form school places arising out of the development hereby permitted (or such lesser number of places as has been approved in writing by the local planning authority) shall be met; and
- (iii) the mechanism (including timing) by which the demand for 60 primary school places arising out of the development hereby permitted (or such lesser number of places as has been approved in writing by the local planning authority) shall be met during the period before the primary school (as at (i) above) is completed and available for use.

The scheme shall be carried out as approved.

33 The residential development hereby permitted shall not be located otherwise than within Noise Exposure Categories A and B, assessed (as at the date of determination by the local planning authority of the scheme submitted pursuant to condition 35 below) in accordance with Annex 1 to PPG24, and taking into account noise from a possible second wide-spaced mixed mode runway at London Gatwick Airport as shown on ERCD 0308 figure 3.4 "London Gatwick Year 2030 - Noise contours with wide spaced parallel runway" or such other noise contours as may be published by the Civil Aviation Authority in respect of such second runway.

34 Before each phase of the development hereby permitted is commenced a scheme shall have been submitted to and approved in writing by the local planning authority to protect dwellings within that phase against noise from (a) the operation of London Gatwick Airport (taking into account noise from a possible second wide-spaced mixed mode runway at London Gatwick Airport as shown on ERCD 0308 figure 3.4 "London Gatwick Year 2030 - Noise contours with wide-spaced parallel runway" or such other noise contours as may be published by the Civil Aviation Authority in respect of such second runway), (b) the operation of the London/Brighton railway line, (c) traffic on the A2011 and M23 and (where applicable) (d) mixed source noise. For the purposes of this condition the scheme shall include:

- (i) a plan identifying the dwellings within that phase which require protection from noise;
- (ii) the means by which the noise level within any (unoccupied) domestic living room or bedroom, with windows open, shall be no more than 35 dB(A) Leq 16hr (between 0700 and 2300) and no more than 30dB (A) Leq 8hr (between 2300 and 0700); and
- (iii) the means by which the noise level within any (unoccupied) domestic bedroom, with windows open, shall not normally exceed 45 dB(A) LAFMax between 2300 and 0700.

Where the standards in (ii) and/or (iii) above cannot be achieved with windows open, the scheme must show how those standards will be met with windows shut and the means by which adequate ventilation will be provided. Each phase of the development shall be carried out in accordance with the approved scheme in respect of that phase. No dwelling hereby permitted shall be occupied until the approved scheme has been implemented in respect of that dwelling.

35 Before the commencement of construction of the primary school on the school site a scheme to protect the school against noise from the operation of London Gatwick Airport (taking into account noise from a possible second wide-spaced mixed mode runway at London Gatwick Airport) shall have been submitted to and approved in writing by the local planning authority. For the purposes of this condition the scheme shall:

- (i) include forecast LAeq30min levels for the school site, for peak hour aircraft movements on easterly departures in the period between 0900 and 1600, assuming the operation of a second wide-spaced mixed mode runway at London Gatwick Airport (as above);
- (ii) specify the means by which the internal areas of the school will meet the internal noise standards set out in Building Bulletin 93 (or any subsequent document which revises or replaces it), taking the forecast levels in (i) above into account; and
- (iii) include evidence of reasonable efforts to achieve a noise level of 50dB(A) Leq30min (taking the forecast levels in (i) above into account) in respect of an appropriately sized external teaching area, in particular as regards the siting and orientation of surrounding buildings and (if necessary) the provision of a canopy over part or all of the said external teaching area.

The school hereby permitted shall not be constructed otherwise than in accordance with the approved scheme.

36 Before the commencement of construction of the local centre, community centre or health centre (as the case may be) hereby permitted, as identified on the Masterplan, a scheme to protect the local centre, community centre and health centre (as the case may be) against noise from the M23 and from the operation of London Gatwick Airport (taking into account noise from a possible second wide-spaced mixed mode runway at London Gatwick Airport) shall have been submitted to and approved in writing by the local planning authority. For the purposes of this condition the scheme shall include the means by which the noise level within the operative parts of the local centre, community centre and health centre (as the case may be) hereby permitted shall not exceed 40dBLAeq30min for peak hour aircraft movements on easterly departures. The local centre, community centre and health centre hereby permitted shall not be constructed otherwise than in accordance with the approved scheme.

37 No building within the B1, B2 and B8 development hereby permitted shall be occupied until the background LA90 noise levels at the noise sensitive properties which are proposed to be closest to that building, as shown on the Masterplan, have been submitted to and approved in writing by the

local planning authority. At all times, the LAeq noise level (assessed in accordance with BS4142) plus a 5dB rating level (where appropriate, in accordance with BS4142) from all the activities from the proposed B1, B2 and B8 development on the site, measured 1 metre from the façade of any noise sensitive development, shall be at least 5dB below the approved background LA90 value.

- 38 No works to construct any building hereby permitted shall commence until a schedule of materials and finishes and, where so required in writing by the local planning authority, samples of such materials and finishes to be used for the external walls and roof of that building has been submitted to and approved in writing by the local planning authority. All buildings shall be constructed in accordance with the approved details.
- 39 The infrastructure, which is approved pursuant to condition 5 above, shall be provided (in accordance with the approved details) before occupation of any dwelling which is serviced by that infrastructure.
- 40 The number of car parking spaces in respect of the development hereby permitted shall not exceed the standards set out in Annex B to the "Planning Obligations and S106 Agreements" Supplementary Planning Document as adopted by Crawley Borough Council in August 2008.
- 41 Once laid out, areas for the parking and/or turning of vehicles, as approved pursuant to condition 5 above, shall not be used for any other purpose.
- 42 The area of land within the visibility splays, as approved pursuant to condition 5 above, shall be kept clear of any obstruction exceeding a height of 0.6m above the level of the nearest part of the highway. The visibility splays shall subsequently be retained at all times.
- 43 The proposed all moves junction between the A2011 and Balcombe Road shall not open to traffic until the works to junction 10 of the M23, in accordance with drawing number 0560/SK/124D, have been completed and are open to traffic.
- 44 No dwelling within the development hereby permitted shall be occupied until the works to form the junction of Steers Lane and the proposed access road into the west of the site, in accordance with drawing number 0560/SK/121C, have been completed and are open to traffic.
- 45 No more than 50 dwellings within the development hereby permitted shall be occupied until the following have been completed and are open to traffic:
- (i) works to the junction of Gatwick Road/Radford Road/James Watt Way in accordance with drawing number 0560/SK/112B;
  - (ii) works to the junction of Radford Road and Steers Lane in accordance with drawing number 0560/SK/116B;
  - (iii) works to a combined footway/cycleway on the approaches to, and across, the Radford Road railway bridge, together with the construction of traffic signals to enable the shuttle working of traffic across the bridge and the widening of the road embankments and carriageways on each side of the bridge, in accordance with drawing number 0560/SK/122D;

- (iv) works to the junction of Balcombe Road and Steers Lane in accordance with drawing number 0560/SK/127B; and
- (v) works to convert the existing traffic signal controlled pedestrian crossings, as situated on the southern and western approaches to the roundabout at the junction of Gatwick Road and Fleming Way, to toucan crossings in accordance with drawing number 0560/SK/131.

46 Before the occupation of (1) any dwelling within that part of phase 2 of the development hereby permitted which is located to the west of Balcombe Road or (2) more than 300 dwellings within the development hereby permitted or (3) any dwelling within phase 3 of the development hereby permitted, the following shall have been completed and been made open to traffic:

- (i) works to the junction of Gatwick Road/Hazelwick Avenue/Crawley Avenue: Hazelwick Roundabout in accordance with drawing number 0560/SK/101B;
  - (ii) works to the all moves junction between the A2011 Crawley Avenue and Balcombe Road in accordance with drawing numbers 0560/SK/117C and 118D;
  - (iii) works to junction 10 of the M23 in accordance with drawing number 0560/SK/124D;
- and
- (iv) street lighting in relation to the section of Crawley Avenue situated between the Hazelwick Roundabout in the west and junction 10 of the M23 in the east shall have been provided in accordance with a scheme previously submitted to and approved in writing by the local planning authority.

47 No dwelling within that part of phase 2 of the development hereby permitted which is located to the east of Balcombe Road shall be occupied until the following have been completed and are open to traffic:

- (i) works to the junction of Balcombe Road and Heathy Farm in accordance with drawing number 0560/SK/119D;
- (ii) works to the junction of Balcombe Road and Radford Road in accordance with drawing number 0560/SK/105E;
- (iii) works to the junction of Balcombe Road and Antlands Lane in accordance with drawing number 0560/SK/107C;

and

- (iv) street lighting in relation to the section of Balcombe Road between Antlands Lane in the north and Crawley Avenue in the south shall have been provided in accordance with a scheme previously submitted to and approved in writing by the local planning authority

48 No more than 300 dwellings within that part of phase 2 of the development hereby permitted which is located to the east of Balcombe Road shall be occupied until an emergency access from that part of phase 2 onto Balcombe Road has been constructed and is open to traffic in accordance

with a scheme previously submitted to and approved in writing by the local planning authority.

49 Before completion of the works to Balcombe Road pursuant to condition 47 above details of locations along Balcombe Road where future monitoring of traffic speeds will be carried out shall have been submitted to and approved in writing by the local planning authority. Traffic speeds shall be monitored along Balcombe Road in accordance with the approved details, every 3 months for a period of 2 years from the date of completion of the works to Balcombe Road pursuant to condition 47 above.

50 Following completion of traffic speed monitoring along Balcombe Road pursuant to condition 49 above a report shall be submitted to and approved in writing by the local planning authority. If the report identifies a requirement for further traffic speed management measures within the public highway, then such measures shall be carried out in accordance with a scheme previously submitted to and approved in writing by the local planning authority.

51 No dwelling within phase 4 of the development hereby permitted shall be occupied until works to the junction of Balcombe Road and the north east access to the site, in accordance with drawing number 0560/SK/120C, have been completed and are open to traffic.

52 Before the development hereby permitted is commenced a scheme for the following works shall have been submitted to and approved in writing by the local planning authority:

- (i) a combined footway/cycleway along the western side of Balcombe Road from the junction between the new link road and Crawley Avenue/Balcombe Road in a southerly direction to St. Catherines Road, Pound Hill;
- (ii) an on road cycle route within Pound Hill to connect the Balcombe Road cycleway to the shops at Grattons Park and Milton Mount Schools;
- (iii) an on road cycle route along Grattons Drive and Chaucer Road to link to St. Mary's Drive;
- (iv) the installation of no less than 60 cycle parking stands on highway land, or such other location as may be agreed with the local planning authority, adjacent to Three Bridges railway station; and
- (v) the installation of real time information screens at 4 existing bus shelters within the Manor Royal industrial area, at the locations which are shown on drawing number 0560/SK/130.

No dwelling within the development hereby permitted shall be occupied until the works have been completed and are brought into public use in accordance with the approved scheme.

53 Before the development hereby permitted is commenced a scheme for the following works shall have been submitted to and approved in writing by the local planning authority:

- (i) a combined footway/cycleway to link the existing subway below Crawley Avenue to the shops at Grattons Park and Milton Mount Schools via the northern and eastern perimeter of Grattons Park; and
- (ii) a combined footway/cycleway to link the existing subway below Crawley Avenue to St. Mary's Drive via the northern and western boundaries of the public open space along, in the most part, an already defined route to form part of the Sustrans route.

For the purposes of this condition the scheme shall include a programme for implementing the works and bringing them into public use and shall be substantially in accordance with Section 2 of Working Paper 2 dated November 2006 prepared by WSP. The scheme shall be carried out as approved.

54 Before the development hereby permitted is commenced a scheme for the following works shall have been submitted to and approved in writing by the local planning authority:

- (i) a short length of combined footway/cycle way along the eastern side of Gatwick Road between Tinsley Lane in the south to the existing traffic signal controlled pedestrian crossing of Gatwick Road in the north, and the conversion of two existing signal controlled pedestrian crossings of Gatwick Road and Fleming Way to toucan crossings, in accordance with drawing number 0560/SK/131;
- (ii) a combined footway/cycleway along the southern side of Radford Road between Gatwick Road in the west, to a point to the west of the existing public footpath to the east of the public house in the east, to be constructed in conjunction with the traffic signal controlled shuttle working of traffic flows across the railway bridge and to form part of the Sustrans cycleway in accordance with drawing numbers 0560/SK/112B, 0560/SK/122D and 0560/SK/141A;
- (iii) an on road cycle route along Tinsley Lane between Crawley Avenue in the south and Gatwick Road in the north in accordance with drawing number 0560/SK/132;
- (iv) a combined footway/cycleway along the eastern side of Hazelwick Avenue to link between Crawley Avenue in the north and the Tesco superstore on Hazelwick Avenue in the south and to include the conversion of the pedestrian footbridge and approach ramps over Crawley Avenue, to the east of the Hazelwick roundabout to a combined footway/cycleway, in accordance with drawing number 0560/SK/133; and
- (v) the installation of a bus shelter on the north side of Haslett Avenue East, opposite Three Bridges railway station, in accordance with drawing number TC 17/1A.

No more than 50 dwellings within the development hereby permitted shall be occupied until the works have been completed and are brought into public use in accordance with the approved scheme.

55 Before the occupation of (1) any dwelling within that part of phase 2 of the development hereby permitted which is located to the west of Balcombe Road, or (2) more than 300 dwellings within the development hereby permitted or (3) any dwelling within phase 3 of the development hereby permitted the following shall have been completed and brought into public use:

- (i) a combined footway/cycleway along the northern verge of Crawley Avenue between the new Crawley Avenue junction in the east to the southern end of Tinsley Lane in the west, in accordance with a scheme previously submitted to and approved in writing by the local planning authority; and
- (ii) a combined footway/cycleway between Tinsley Lane in the east, around the northern perimeter of the Hazelwick roundabout in conjunction with toucan crossings of the Gatwick Road slip roads, to connect to the existing cycle route using Woolborough Lane via Crawley Avenue to the west of the roundabout in accordance with drawing number 0560/SK/135.

56 No more than 500 dwellings within the development hereby permitted shall be occupied until a scheme for the provision of improved pedestrian crossing facilities on Haslett Avenue East, adjacent to Three Bridges railway station, has been submitted to and approved in writing by the Local Planning Authority. For the purposes of this condition, the scheme shall (1) include a programme by when these facilities shall be completed and open to traffic and (2) be substantially in accordance with Section 3 of Working Paper 2 dated November 2006 prepared by WSP. The scheme shall be carried out as approved.

57 Before the development hereby permitted is commenced a scheme for the provision of bus services to and from the site shall have been submitted to and approved in writing by the local planning authority. For the purposes of this condition the scheme shall provide for a level of bus services which is no less than that set out in Public Transport Working Paper 1C dated November 2006 prepared by WSP and shall include the following details:

- (i) the destinations and routes which shall be served by the bus services;
- (ii) the frequency of operation of the bus services;
- (iii) the hours of operation of the bus services; and
- (iv) a mechanism by which the bus services shall be reviewed and, if necessary, varied as a result of any review.

The scheme shall be implemented in accordance with the approved details including any variations approved pursuant to (iv) above.

58 Before the development hereby permitted is commenced a scheme for the provision of bus stops (with real time passenger information) within the site shall have been submitted to and approved in writing by the local planning authority. For the purposes of this condition the scheme shall include a programme for provision of the bus stops. The development shall not be carried out otherwise than in accordance with the approved scheme.

59 Before any building hereby permitted is occupied a sustainable travel information pack shall have been submitted to and approved in writing by the local planning authority. For the purposes of this condition the pack shall include the following details:

- (i) public facilities (including schools) within a 5km radius of the local centre in the site;
- (ii) bus services operating in the vicinity of the development including service timetables and connections with any other public transport service and provider;
- (iii) improvements to public transport provision which are being promoted as part of the development;
- (iv) the location of secure storage facilities for bicycles within the development and elsewhere within a 5km radius of the local centre in the site;
- (v) information regarding existing and proposed cycle and pedestrian routes to and from the public facilities included in (i) above;
- (vi) services that will be provided in the local centre and the community centre hereby permitted;
- (vii) delivery services by local retailers to the dwellings hereby permitted; and
- (viii) car sharing initiatives such as [www.liftshare.com](http://www.liftshare.com) and [www.westsussexcarshare.com](http://www.westsussexcarshare.com) .

A copy of the pack shall be provided to the first occupier of (a) each building within the B1, B2 and B8 development, (b) the school, (c) the local centre, (d) the community centre and (e) each of the dwellings hereby permitted.

60 No dwelling within each phase of the development hereby permitted shall be occupied until a travel plan in respect of all dwellings to be provided within that phase has been submitted to and approved in writing by the local planning authority. For the purposes of this condition the travel plan shall include the following provisions, measures and/or initiatives:

- (i) a programme for its implementation;
- (ii) appointment of a travel plan co-ordinator to manage and monitor the travel plan;
- (iii) all dwellings to be provided with capability to install broadband to enable working from home;
- (iv) the promotion of car sharing initiatives such as [www.liftshare.com](http://www.liftshare.com) and [www.westsussexcarshare.com](http://www.westsussexcarshare.com);
- (v) the promotion of a car club;
- (vi) provision of secure on-site cycle storage;
- (vii) an objective to secure a target of a 15% reduction in single occupancy car use during a typical weekday; and
- (viii) an annual review of the travel plan by the travel plan co-ordinator to identify both the progress which has been made in respect of

the measures set out in the plan and the action to be taken to address any concerns arising out of implementation and application of the plan.

A copy of the annual review (pursuant to (viii) above) shall be submitted to the local planning authority within 3 months of the review having been completed. The travel plan shall be implemented as approved.

61 No building within any part of the B1, B2, B8 development hereby permitted shall be occupied until a travel plan in respect of that part has been submitted to and approved in writing by the local planning authority. For the purposes of this condition the travel plan shall include:

- (i) a programme for its implementation;
- (ii) a mechanism by which the local planning authority shall be provided with an annual monitoring report identifying both the progress which has been made in respect of the measures set out in the plan and the action to be taken to address any concerns arising out of implementation and application of the plan; and
- (iii) appointment of a travel plan co-ordinator to manage and monitor the travel plan.

The travel plan shall be implemented in accordance with the approved details.

62 No less than 40% of the total number of dwellings within each phase of the development hereby permitted shall be affordable housing, of which no less than 70% shall be available as social rented accommodation and the remainder shall be available as intermediate affordable housing. The terms “affordable housing”, “social rented housing” and “intermediate affordable housing” within this condition, shall have the meanings set out in Annex B of Planning Policy Statement 3 (or any replacement of it).

63 Before any phase of the development hereby permitted is commenced a scheme for the provision of affordable housing within that phase shall have been submitted to and approved in writing by the local planning authority. For the purposes of this condition such a scheme shall provide affordable housing which satisfies local housing needs (including the needs of the disabled where appropriate and identified) and shall include:

- (i) details of the type, size, tenure, location and timing of the provision;
- (ii) proposals for the involvement (including future management) of a Registered Social Landlord (“RSL”) (as defined in the Housing Act 1996) or such other affordable housing provider having Housing Corporation Preferred Partner status in delivering the affordable housing; and
- (iii) details of any alternative arrangement involving another RSL or affordable housing provider with Housing Corporation Preferred Partner status (not specified in (ii) above) providing the affordable housing in the event that funding for the provision of any affordable housing within a phase of the development hereby permitted is not secured within 2 years of development

commencing within that phase or such other period as may be agreed in writing with the local planning authority.

Affordable housing shall be provided in accordance with the approved scheme. No more than 75% of the open market dwellings within any phase shall be constructed before the dwellings to be offered as social rented properties have been completed and handed over to the RSL or such other affordable housing provider as may have been approved pursuant to this condition. No more than 80% of the open market dwellings within each phase of the development shall be occupied until all affordable housing within that phase has been completed.

- 64 None of the dwellings hereby permitted shall be sited within (1) 100m of the eastern boundary of the London and Brighton railway line, as shown on drawing number CSA/667/031, and (2) 40m from the western edge of the northbound carriageway of the M23.
- 65 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re enacting that Order with or without modification) no development within Classes A-C (inclusive) of Part 1 of Schedule 2 to that Order shall be carried out.
- 66 No works in respect of the construction of the development hereby permitted shall be undertaken at the following times:
- (i) outside the hours of 0700 - 1800 on Mondays to Fridays (inclusive);
  - (ii) outside the hours of 0800 - 1300 on Saturdays;
  - (iii) on Sundays and on public holidays.
- 67 The local planning authority shall be provided with no less than 28 days' prior written notice of:
- (i) the commencement of each phase of the development hereby permitted;
  - (ii) the projected occupation of the first dwelling within the development hereby permitted;
  - (iii) the projected occupation of the 50th dwelling within the development hereby permitted; and
  - (iv) the projected occupation of every 100th dwelling within the development hereby permitted.
- 68 The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule at Annex C.

### SCHEDULE List of Approved Plans and Drawings

- CSA/667/025 Revision A (application site boundary)
- CSA/667/020 Revision F (master plan)
- CSA/667/013-4 Revision E (phasing plan)
- CS/000916/Figure 1 Revision A (flood plain)
- 0560/SK/124D (works to junction 10 of the M23)
- 0560/SK/121C (works to junction of Steers Lane and proposed access road into west of appeal site)
- 0560/SK/112B (works to junction of Gatwick Road/Radford Road/James Watt Way)
- 0560/SK/116B (works to junction of Radford Road and Steers Lane)
- 0560/SK/122D (works to combined footway/cycleway in respect of Radford Road railway bridge)
- 0560/SK/127B (works to junction of Balcombe Road and Steers Lane)
- 0560/SK/131 (works to roundabout at the junction of Gatwick Road and Fleming Way)
- 0560/SK/101B (works to the junction of Gatwick Road/Hazelwick Avenue/Crawley Avenue: Hazelwick roundabout)
- 0560/SK/117C and 118D (works to junction of Crawley Avenue and Balcombe Road)
- 0560/SK/119D (works to junction of Balcombe Road and Heathy Farm)
- 0560/SK/105E (works to junction of Balcombe Road and Radford Road)
- 0560/SK/107C (works to junction of Balcombe Road and Antlands Lane)
- 0560/SK/120C (works to junction of Balcombe Road and north east access to the appeal site)
- 0560/SK/130 (locations of existing bus shelters to which real time information will be installed)
- 0560/SK/141A (proposed footway/cycleway at Radford Road)
- 0560/SK/132 (cycle route along Tinsley Lane)
- 0560/SK/133 (combined footway/cycleway along eastern side of Hazelwick Avenue)
- TC17/1A (installation of bus shelters on north side of Haslett Avenue East)
- 0560/SK/135 (combined footway/cycleway on Tinsley Lane)
- CSA/667/031 (railway goods yard buffer)

## **RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT**

**These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).**

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

### **SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;**

The decision may be challenged by making an application to the High Court under Section 288 of the Town and Country Planning Act 1990 (the TCP Act).

#### **Challenges under Section 288 of the TCP Act**

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application under this section must be made within six weeks from the date of the decision.

### **SECTION 2: AWARDS OF COSTS**

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

### **SECTION 3: INSPECTION OF DOCUMENTS**

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.



# **Addendum Report to the Secretary of State for Communities and Local Government**

**by Martin Pike BA MA MRTPI**

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

The Planning Inspectorate  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN  
☎ GTN 1371 8000

**Date: 5 May 2010**

TOWN AND COUNTRY PLANNING ACT 1990

**CRAWLEY BOROUGH COUNCIL**

APPEAL BY

**TAYLOR WIMPEY UK LTD AND BEAZER HOMES (REIGATE) LTD**

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## Preamble

- (A1) On 8 October 2009 I reported to the Secretary of State on the second inquiry held into an appeal by Taylor Wimpey UK Limited and Beazer Homes (Reigate) Limited against the failure of Crawley Borough Council to determine an application for outline planning permission for a mixed residential and employment development with associated community and other facilities on land at the North East Sector, Crawley. The Secretary of State wrote to the main parties on 26 November 2009 indicating that he was minded to allow the appeal, subject to his concerns about some of the proposed conditions being satisfactorily addressed.
- (A2) In addition to commenting on the issue of conditions, some of the parties raised concerns about the interpretation of the evidence given at the inquiry in relation to average noise contours. One party also raised a concern about the evidential basis for the conclusion on night flights. The Secretary of State has decided that he requires further information concerning my conclusions on these issues. I have been asked to consider the representations, insofar as they relate to these two matters, and submit an Addendum Report. I am specifically asked to consider whether the comments made on these two matters alter my conclusions and/or recommendation in any way, and if so, the reasons for that.
- (A3) The comments that I have considered in relation to the interpretation of noise contours were received from Berwin Leighton Paisner (BLP) for Gatwick Airport Ltd (GAL), dated 21 January and 22 March 2010; from Crawley Borough Council (CBC), dated 21 January 2010; from West Sussex County Council (WSCC), dated 24 February 2010; and from Macfarlanes on behalf of the appellants, dated 19 February 2010. Comments in relation to night flights were received from BLP (dated 21 January 2010) and Macfarlanes (dated 19 February 2010). Copies of these representations are attached to this Addendum Report.

## Average noise contours

- (A4) In the 'Conclusions' section of my report I set out my understanding of average noise contours in paragraphs 11.7 to 11.10. In paragraph 11.10 I state:

*For locations very close to an airport, the noise from aircraft is greater on take-off than on landing. At Gatwick, aircraft depart in a westerly direction for 73% of the time on average, the other 27% being in an easterly direction. The average mode noise contours reflect this split. In practice, however, aircraft will frequently take off in the same direction throughout a day, or often for a succession of days, as a result of the wind coming from a broadly consistent direction. Because the application site lies to the south-east of the airport, it would experience the higher noise levels from a second runway at Gatwick when departures are to the east, ie for 27% of the time.*

- (A5) This understanding was based on evidence given at the inquiry, particularly that of the two noise experts (Mr Turner for CBC and Mr Charles for the appellants), who indicated that the average figure took account of the proportionate split between westerly and easterly departures and landings.

This means that a specific noise level would only occur when the actual events on a particular day consisted of 73% of departures to the west and 27% of departures to the east. I believe that my paragraph 11.10 is an accurate reflection of this evidence.

- (A6) In paragraphs 11.22 to 11.34 of my Conclusions, I address in detail the effect on residential properties of noise from mixed mode operation, conducting an assessment against various strands of policy. I summarise my findings in paragraph 11.34, as follows:

*Overall, virtually all the dwellings on the appeal site would, as a result of a second runway used in mixed mode, be subject to noise above the level that is regarded as the onset of significant community annoyance, and 60% of the dwellings would lie within an area where noise is considered undesirable for large numbers of people. However, as all the dwellings would be built with sound insulation, the significant adverse noise effects would be mainly experienced in the gardens and the outdoor environment of the North East Sector, including the sizeable areas of public open space. Moreover such effects would be experienced, on average, for 27% of the time. At other times, and inside the dwellings, noise from aircraft would not reach levels that would cause significant concern when assessed against current guidance.*

- (A7) Again this was based on evidence given at the inquiry. Mr Turner stated in evidence-in-chief that residents of the North East Sector would experience significant noise when aircraft departed in an easterly direction; when aircraft departed to the west, he said residents would be aware of noise but it would not materially affect them. Mr Turner reiterated the point about westerly departures in cross examination, stating that for 73% of the time noise would be audible but not intrusive. I believe that my paragraph 11.34 is a fair summary of that evidence.

- (A8) Mr Lockwood, GAL's witness on noise, said that there was nothing of significance in Mr Turner's evidence with which he disagreed.

- (A9) The concern expressed by BLP in their letter of 21 January refers solely to paragraph 11.178 of my Conclusions, where I attempt to summarise briefly the arguments for and against the proposal before coming to a balanced overall conclusion. The sentences in contention are as follows:

*Because the ATWP seeks to safeguard a wide-spaced runway operated in mixed mode, this is the option that must be assumed for the purpose of this analysis. In this circumstance, noise levels above 60 dB(A), which PPG24 says are undesirable for major development, would be endured by 60% of North East Sector residents for 27% of the time.*

- (A10) BLP are correct in saying that the second sentence is wrong. It is a conflation of two separate points, and it arose out of a desire to summarise the arguments as succinctly as possible. Moreover it is not a true reflection of the previous sections of my Conclusions, notably paragraphs 11.10 and 11.34 which are set out above. It is also inconsistent with my findings in respect of PPG24, as given in paragraphs 11.25 and 11.158. In addition, to avoid any possibility that there is confusion over noise levels in this paragraph, the word "average" could be inserted in those places where average noise levels are being referred to.

(A11) What I should have said in paragraph 11.178 is (new wording in **bold**):

*.....**average** noise levels above 60 dB(A), which PPG24 says are undesirable for major development, would be endured by 60% of North East Sector residents. **The most significant adverse noise effects would be experienced** for 27% of the time, **on average**. ....*

This is what I had in mind when I reached my balanced judgement, as I believe is clear when my Conclusions are read as a whole.

(A12) Although not mentioned by BLP, it might be argued that a similar conflation has occurred later in paragraph 11.178 in the sentence that deals with the 57 dB(A) noise level, which states "*Similarly, although almost all the North East Sector residents would experience noise above the 57 dB(A) level which marks the onset of community annoyance, they too would endure this for two days a week on average, again when outside their homes or the school building.*". To eliminate any doubt about the interpretation of the word "this", it should be replaced by the same words as above: "the most significant adverse noise effects".<sup>1</sup> In addition, the clause "noise above the 57 dB(A) level" could be rephrased to read "an average noise level above the 57 dB(A)".

(A13) Thus paragraph 11.178, as amended, reads as follows:

"Because the ATWP seeks to safeguard a wide-spaced runway operated in mixed mode, this is the option that must be assumed for the purpose of this analysis. In this circumstance, average noise levels above 60 dB(A), which PPG24 says are undesirable for major development, would be endured by 60% of North East Sector residents. The most significant adverse noise effects would be experienced for 27% of the time, on average. Because sound insulation would provide an acceptable internal living environment, and an acceptable teaching environment inside the primary school, the undesirable noise would be perceived by residents when in their gardens and the external spaces of the neighbourhood (including the primary school play areas). Similarly, although almost all the North East Sector residents would experience an average noise level above the 57 dB(A) which marks the onset of community annoyance, they too would endure the most significant adverse noise effects for two days a week on average, again when outside their homes or the school building. Even the highest average noise levels that would be experienced across the site would be below the level at which the Government advises that planning permission should not normally be granted. Thus 60% of the population would be living in a noise environment which, although undesirable according to PPG24, is not unacceptable. Noise would still be a factor for the remaining 40%, but would be below the level which PPG24 says is undesirable."

(A14) CBC also criticises paragraph 11.178, and paragraph 11.34, on the basis that I have misunderstood the nature of noise contours. It says that because the noise contours are an average, in which the existence of quieter and noisier days has already been taken into account, to assume that 27% of the days are then noisy is the equivalent of double counting. As stated above, I accept

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<sup>1</sup> The sentence that deals with the 57 dB(A) noise level derives from paragraph 11.144; in case there should be any doubt about it, the word "this" in the final sentence of that paragraph should also be replaced by the words "the most significant adverse noise effects".

this criticism in relation to paragraph 11.178, where I had conflated the 27% of noisier days with the average noise contours. But I do not make the same direct relationship in paragraph 11.34. There I indicate that the significant adverse noise effects would be experienced for 27% of the time on average, which is what Mr Turner said in evidence. It is a separate point from the point that 60% of the dwellings would be within an area where noise is considered undesirable. Thus it is not the undesirable average noise levels that would be experienced for 27% of the time (they would be experienced for all the time), but the highest noise levels, for which the phrase 'significant adverse noise effects' is used.

- (A15) It may be that CBC's criticism is partly related to the final sentence of paragraph 11.34, where it might be said that there is a lack of clarity about what is meant by the final clause "*when assessed against current guidance*". If this is a concern, then the clause should simply be deleted, for it is not necessary.

### **Night Flights**

- (A16) I address the matter of night flights in my Conclusions at paragraph 11.30, which states:

*As to night-time noise, because of the current restrictions on night flights from Gatwick and the ample capacity of the existing runway to cater for any likely increase in night operations, there is every reason to believe that all flights would continue to operate from the northern runway. Moreover, the Master Plan does not contain any night-time noise contours for a second runway, suggesting that no night-time use of this runway is contemplated.*

- (A17) BLP allege that there is no sound evidential basis for the conclusion that night flights would continue to operate from the northern runway, and that I was wrong to draw any inference from the absence on night-time contours in the Gatwick Airport Master Plan.
- (A18) The evidence on night flights was limited. I accept that the existing noise abatement objectives for Gatwick would have to be reviewed if planning permission was granted for a second runway, but it does not follow that that review would allow night operations to take place on the new runway. Mr Charles gave evidence for the appellants which set out long term (30 year) environmental objectives for Gatwick Airport. These include avoiding increases in night noise above 2002/03 levels, and meeting adopted shorter term noise abatement objectives. Having regard to the current noise abatement objectives, Mr Charles propounded that future night operations would continue to operate on the existing runway on the basis that (1) night noise was likely to be confined to existing areas where mitigation measures had been provided, and (2) night operations were retained on the existing runway at Manchester Airport when the second runway was provided there. Mr Charles' accepted in cross examination that night flying on a second runway could not be ruled out, but I accepted the logic of his argument that it was unlikely for the reasons he gave.
- (A19) Perhaps a lengthier explanation in paragraph 11.30, which mentioned the additional factors to which Mr Charles referred, would have given greater clarity to this matter. However, given the limited extent of evidence on night flights at the inquiry, I did not think this was necessary. It may be that my conclusion about night flights continuing from the northern runway is too

absolute, given the limited evidence, and that it would better be expressed as a likely outcome.

(A20) As to BLP's point about failing to consider that housing on the appeal site would constrain the flexibility of affording relief to other communities affected by night time noise, I accept that I did not specifically refer to night operations in that context. But I do consider the flexibility argument in general terms in other parts of my Conclusions, recognising that if a second runway was proposed, in determining its mode of operation a delicate balance would have to be found between the competing interests of groups of residents living at different locations around the airport. In my mind the possibility of night flights is just one element of this argument, and one that did not require a specific mention. I also had regard to Mr Charles' evidence that night flights from a second runway would have greater impact on the existing communities of Ifield and Langley, rather than the new residents of the North East Sector, because of the predominance of departures in a westerly direction.

(A21) Thus any further constraint on flexibility that would arise specifically in relation to night operations does not, in my view, add materially to the wider arguments about flexibility that are addressed elsewhere in my Conclusions. It certainly does not change the overall conclusion.

### **Overall Balance**

(A22) For the reasons I have given, and apart from the specific amendments indicated above, I consider that the matters addressed in this Addendum do not alter my overall conclusions or recommendation in any way.

*Martin Pike*

INSPECTOR