

**To: The Deputy Leader and Members of the
Planning and Development Board**

**(Councillors Simpson, Reilly, Bell, L Dirveiks,
Hayfield, Henney, D Humphreys, Jarvis, Lewis,
Morson, Phillips, Smitten, Sweet, Symonds and
A Wright)**

For the information of other Members of the Council

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For enquiries about specific reports please contact the officer named in the reports

PLANNING AND DEVELOPMENT BOARD AGENDA

14 JANUARY 2019

The Planning and Development Board will meet in The Council Chamber, The Council House, South Street, Atherstone, Warwickshire CV9 1DE on Monday 14 January 2019 at 6.30 pm.

AGENDA

- 1 **Evacuation Procedure.**
- 2 **Apologies for Absence / Members away on official Council business.**
- 3 **Disclosable Pecuniary and Non-Pecuniary Interests**

ITEMS FOR DISCUSSION AND DECISION (WHITE PAPERS)

- 4 **Planning Applications** – Report of the Head of Development Control.

Summary

Town and Country Planning Act 1990 – applications presented for determination

The Contact Officer for this report is Jeff Brown (719310).

- 5 **Planning Performance** – Report of the Head of Development Control.

Summary

The report sets out the current performance of the Council as measured against the newly introduced national designation thresholds.

The Contact Officer for this report is Jeff Brown (719310).

- 6 **Consultation on Birmingham Airport Masterplan** – Report of the Corporate Director - Environment.

Summary

This report brings the Birmingham Airport Masterplan consultation to Members for their comments including a summary of the proposals and initial observations.

The Contact Officer for this report is Mike Dittman (719451).

- 7 **Article 4 Direction, Wathen Grange Special School, Mancetter** – Report of the Head of Development Control.

Summary

The report seeks confirmation taken by the Chief Executive in consultation with the Chairman of the Board, in the issue of an Article Four Direction in respect of this property.

The Contact Officer for this report is Jeff Brown (719310).

JERRY HUTCHINSON
Chief Executive

Agenda Item No 5

Planning and Development Board

14 January 2019

Report of the Head of Development Control

Planning Performance

1 Summary

- 1.1 The report sets out the current performance of the Council as measured against the newly introduced national designation thresholds.

Recommendation to the Board

That the Board notes the position.

2 Consultation

- 2.1 Consultation has taken place with the relevant Members and any comments received will be reported at the meeting.

3 Introduction

- 3.1 Members will be aware of the quarterly performance reports relating to the speed of determining planning applications in respect of our own targets. These are also forwarded to the Government. It uses them in its assessment of whether or not a Local Planning Authority is “performing” and thus whether it would have to be “designated” with the possibility of Government intervention. Members will be aware from previous reports that there are now new measures to make this assessment – on the speed of determinations and the quality of decisions over a two year period.
- 3.2 The first set of assessments following introduction of the new regime came into effect in November 2018.
- 3.3 The first measure is the speed of determining planning applications for major developments in the period October 2016 to September 2018. The threshold is 60% of decisions made within 13 weeks. North Warwickshire achieved 92.7%. The national average was 87.7%.
- 3.4 The second measure is the speed of determining planning applications for non-major development in the same period. The threshold is 70% within 8 weeks. North Warwickshire achieved 83%. The national average was 88.3%.

- 3.5 The third measure is the quality of decisions made for major planning applications and the threshold is 10% of appeals against decisions being allowed at appeal in the last two years. North Warwickshire is at 7.3%. The national average was 2.7%.
- 3.6 The final measure is the quality of decisions made for non-major developments. The threshold is again 10% and North Warwickshire's figure was 0.7%. The national average was 1.2%.
- 3.7 Clearly, it is the third measure here that is of concern. In looking at the reason for this, Members will know that following refusals in the last two years, appeal decisions were made granting planning permissions for residential developments in Ansley, Austrey and Wood End, together with the St. Modwen's development at junction 10 on the M42. Because of the low number of major applications that we deal with, it can be seen that this measure is very sensitive to only one or two of these cases being overturned at appeal.

4 Report Implications

4.1 Environment, Sustainability and Health Implications

- 4.1.1 There is concern that the decisions the Council takes on planning applications for what it considers to be proper planning reasons in order to protect the local environment from the impacts of major developments are not given similar significant weight at appeal.

4.2 Links to Council's Priorities

- 4.2.1 There is concern too that the Council's priorities could be weakened as a consequence of some appeal decisions.

The Contact Officer for this report is Jeff Brown (719310).

Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date

Agenda Item No 6

Planning and Development Board

14 January 2019

Report of the Corporate Director - Environment

Consultation on Birmingham Airport Masterplan

- 1.1 This report brings the Birmingham Airport Masterplan consultation to Members for their comments including a summary of the proposals and initial observations.

Recommendations to Board

- a That the consultation be noted; and**
- b That the observations in this report and any comments that Members wish to make be sent as a response to the consultation.**

2 Birmingham Airport Masterplan Consultation

- 2.1 On Tuesday 6 November 2018, Birmingham Airport launched its new draft Master Plan, titled, 'The Midlands Gateway to the World'. The consultation runs until midnight on the 31 of January 2019 and the final version of the Master Plan will then be published in early 2019.
- 2.2 The consultation includes a series of public exhibitions and the most local and remaining exhibitions (following publication of this report) to the Borough are to be held at the following venues;
- Marston Green - Marston Green Parish Hall Elmdon Rd, Marston Green, Birmingham B37 7BT
Tuesday 08/01/2019 - 18:00-20:00
 - Birmingham Airport - The Learning Hub, 3rd Floor, Terminal Building
Saturday 12/01/2019 - 10:00-12:00
 - Curdworth - Curdworth Village Hall, Coleshill Road, Curdworth B76 9HH
Monday 14/01/2019 - 19:00-21:00
 - Coventry - St Mary's Guildhall, Bayley Lane, Coventry CV1 5RN
Tuesday 15/01/2019 - 18:00-20:00
- 2.3 The Birmingham Airport Masterplan identifies what development the airport will require over the next 25-30 years to facilitate the expected growth in passenger numbers. Birmingham Airport, through the new Master Plan, is seeking to take advantage of its unique position as it will become the UK's only HS2 connected airport in ten years' time, growing the catchment into London with high-speed trains and serving Birmingham from the capital in

around 38 minutes. The Masterplan seeks to maximise the benefits of HS2 for Birmingham, the wider region, airlines and passengers.

- 2.4 The Masterplan for Birmingham Airport, the seventh largest in the UK, involves a £500 million investment in the transport hub over the next 15 years, which it hopes will increase capacity by 5 million passengers a year, taking passenger numbers to 18 million by 2033, a further 40% increase on current volumes.

3 **Master Plan Summary**

- 3.1 The Masterplan includes creating a larger departure lounge with mezzanine floor, new retail and restaurant units and other facilities. Ground floor check-in service desks will be revamped and increased, incorporating new bag-drop technology aimed at improving efficiency. The security area will be enlarged and a new arrivals section created.

- 3.2 The airport plane capacity will be increased by 11 additional aircraft stands and better public transport and road access for passengers. Although the proposals are short of the airport's estimated 25 to 30 million maximum it is an increase of 5 million passengers per year based on 2017 figures. The airport is also considering a 24 million passenger scenario, to assess the implications of even higher growth, should that potential arise within the timeframe of the plan.

- 3.3 The airport is also planning to secure a greater choice of flights and destinations, long and short haul services, charter services and journeys with full service and budget carriers adding to its existing 150 routes.

- 3.4 This investment is estimated to increase the airports contribution to the local economy from £1.5 billion to £2.1 billion per annum and increase employment to 34,400 jobs in 2033. The Airport currently provides, directly or indirectly, 6700 jobs on site. The Airport estimates that there will be 8,500 jobs on site under the balanced growth scenario (18mppa) in 2033 which rises to 10,300 jobs under the high growth scenario (24mppa).

- 3.5 The planned changes sit alongside improved connectivity and a direct link to the HS2 interchange station approximately 1.2 miles away, adjoining the Borough's south west boundary. An additional 2,000 car parking spaces are also proposed to address the passenger growth expected. A diagrammatic Map is attached as Appendix 1 for Members information on the onsite proposed developments and land requirements.

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- 3.6 The announcement also sets aside the provision of a second runway in the near future as the Master Plan proposal's and aims are achievable using the existing single runway. The airport states this approach is consistent with recently restated government policy for making best use of the UK's existing runways.

- 3.7 Nevertheless, additional land is needed to enable best use of the single runway to provide additional aircraft stands. An estimate of around 20 to 40 hectares is required and is currently being acquired. One of the preferred locations for some 8 hectares is the current NEC west car park adjoining the Airport site. The remaining 12-32 hectares is most likely to be required on land south of the A45 between the Elmdon side of the Airport and the Jaguar Land Rover factory.
- 3.8 The Airport is also working closely with Midlands Connect to promote the greater use of public transport and support their 2017 Strategy. The Master Plan will require some key improvements to public transport and road connectivity which includes;
- An effective replacement people mover from the HS2 interchange station. (As HS2 construct an Automated People Mover from the HS2 Interchange Station via Birmingham International Station to the Airport, the Airport will provide a covered route linking to the North terminal).
 - The release of capacity on the West Coast Mainline, arising from HS2, for more regional train services to the adjacent Birmingham International Station and more early morning services.
 - The completion of new Metro and Sprint services from Birmingham city centre.
 - A new junction on the M42, to relieve the chronic congestion on the motorway network, and a further study to determine the need for additional capacity on the M42 itself to support regional growth.

4 Observations

4.1 In general terms the Borough supports the Master Plan and the growth of the Airport for the economic and employment benefits it should enable. The Borough welcomes the focus on maximising the potential for growth on the existing site and that there is no current or future need in the medium term for a second runway and all the environmental and physical impacts such a proposal may have on the Borough. The Master Plan consultation seeks responses to a number of specific questions and these are attached as Appendix 2 to this Report, including the Borough's draft responses.

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4.2 The Borough notes the Airport's priority to managing noise, including the Noise Action Plan. Nevertheless, there are concerns over the potential impact, particularly in view of the recent changes proposed to the North (Runway 33) flight path (See response to Q5 in Appendix 2). Although the operating technique used for aircraft approaches are designed and stated to reduce fuel, air emissions and noise it is still noted that the noise footprint is forecast to impact around 6% more people in 2033 than today. The Borough are aware of the Sound Insulation Scheme that makes up to £3,000 per household available for insulation against aircraft noise and would support its

maintenance and encourage its wider application in view of the flight path changes.

- 4.3 With the expected construction works resulting from HS2, any additional works as a result of the Master Plan will need careful management to avoid adverse impacts on traffic movements, congestion and avoid potential rat running consequences into the rural road network and settlements to the south of the Borough. This is of particular concern regarding the works involved in a new junction on the M42 to the south west corner of the Borough.
- 4.4 The Borough support and encourage public transport links and service improvements and would emphasise these improvements must not solely focus on the main urban areas of Solihull, Birmingham and Coventry but also maximise links and opportunities into Coleshill and other settlements within North Warwickshire. This could include Transport for West Midlands' (TfWM) potential extension of the Sprint rapid bus transit system, planned for 2022, in time for the opening of the Commonwealth Games. This will provide longer buses on dedicated bus lanes that will provide a faster service between the Airport, residential areas of East Birmingham and Birmingham city centre but could extend further east to serve settlements such as Water Orton and Coleshill in the Borough. Initial discussions have taken place with TfWM, WCC and this Council explore opportunities.
- 4.5 The Master Plan also notes and supports the Midlands Metro extension from Birmingham city centre to Birmingham International Station and/or the HS2 Interchange Station which will provide connectivity with the Airport by 2026. Although the Airport currently supports this proposed route through East Birmingham and North Solihull, we would encourage the Airports to support further expansion of this network into North Warwickshire settlements nearby, to provide a convenient public transport route to the Airport and offer the opportunity of access to employment opportunities for our residents on and around the Airport site, particularly if the high growth scenario is realised.
- 4.6 Similarly, in addition to Sprint and Metro, the Airport is supporting the use of Very Light Rail (VLR – on-street lightweight trams) currently under consideration by TfWM. An initial VLR route is proposed between Coventry city centre and the University of Warwick and Whitley as part of TfWM's ten year 'Delivery Plan for Transport' (2017) with a route to the Hub in the future. This proposal is currently in its infancy and if taken forward would be delivered beyond 2026. The Borough would also encourage the Airport to seek expansion of this route proposal into North Warwickshire.
- 4.7 The support by the Airport for these proposals, to provide improved connectivity for staff and passengers travelling from or via Coventry should similarly seek opportunities for links into and extension of routes into the North Warwickshire settlements, particularly at Coleshill, benefitting from rail services at Coleshill parkway.

- 4.8 Note is made also of the proposed additional 2,000 car parking spaces at the Elmdon site to be provided to accommodate the increased passenger numbers. Inevitably, given the Airport's accessible location on the Motorway and Strategic Road network, car traffic will increase significantly and the Borough seek assurances that any new car parking provision is made as accessible and close as possible and practical to the Airport facilities, well related to and with good links to and from the strategic road network.
- 4.9 The Airport Surface Access Strategy 2018-2023, which aligns with the Airport's 2018 to 2033 Master Plan, notes and addresses some of these issues. Birmingham Airport's draft Surface Access Strategy (ASAS) 2018 to 2023 is also under consultation until 31st January 2019. It updates the 2015 Surface Access Strategy and aligns with the Airport's 2018 to 2033 Master Plan.
- 4.10 However, given the projected increases in passenger numbers, routes operators and flights up to 2033 the Borough seek assurances these concerns will be addressed and the Airport work closely with WCC Highways, Highways England and HS2 limited given the likely impacts on the road network from the cumulative effects of the growth proposed from HS2 International Station and the "Hub", the Airport Master Plan, the proposed growth at National Exhibition Centre Masterplan November 2018 and the UK Central strategic economic growth area from Solihull, all of which impact on the M42 Junctions 6, 7 & 7A, M6 Junction 4, A45 and A452 routes to and from Coventry/Solihull/Birmingham and Sutton Coldfield/Tamworth and Lichfield routes.
- 4.11 Furthermore, in view of the projected growth proposals impacting on the road networks noted above, and notwithstanding any technological improvements to aircraft and vehicle engine emissions there are concerns over the impact of future growth on air quality, particularly around the M42 Junctions and surrounding strategic road network. The Borough notes that the Masterplan indicates that the 2033 base case scenario, modelled concentrations on air quality across the assessment area at locations relevant for public exposure (i.e. off airport in adjacent areas and close to the local and strategic highway network) meet the air quality standards in the EU Air Quality Directive. Nevertheless, the Borough Council would wish to maintain our concerns over potential air quality impacts. The Borough would support the airport's efforts to mitigate the impact of future growth particularly through encouraging the use of sustainable modes of transport to access the Airport, to increase the use of electric vehicles on the Airport site and reduced engine taxiing.

The Contact Officer for this report is Mike Dittman (719451).

Background Papers

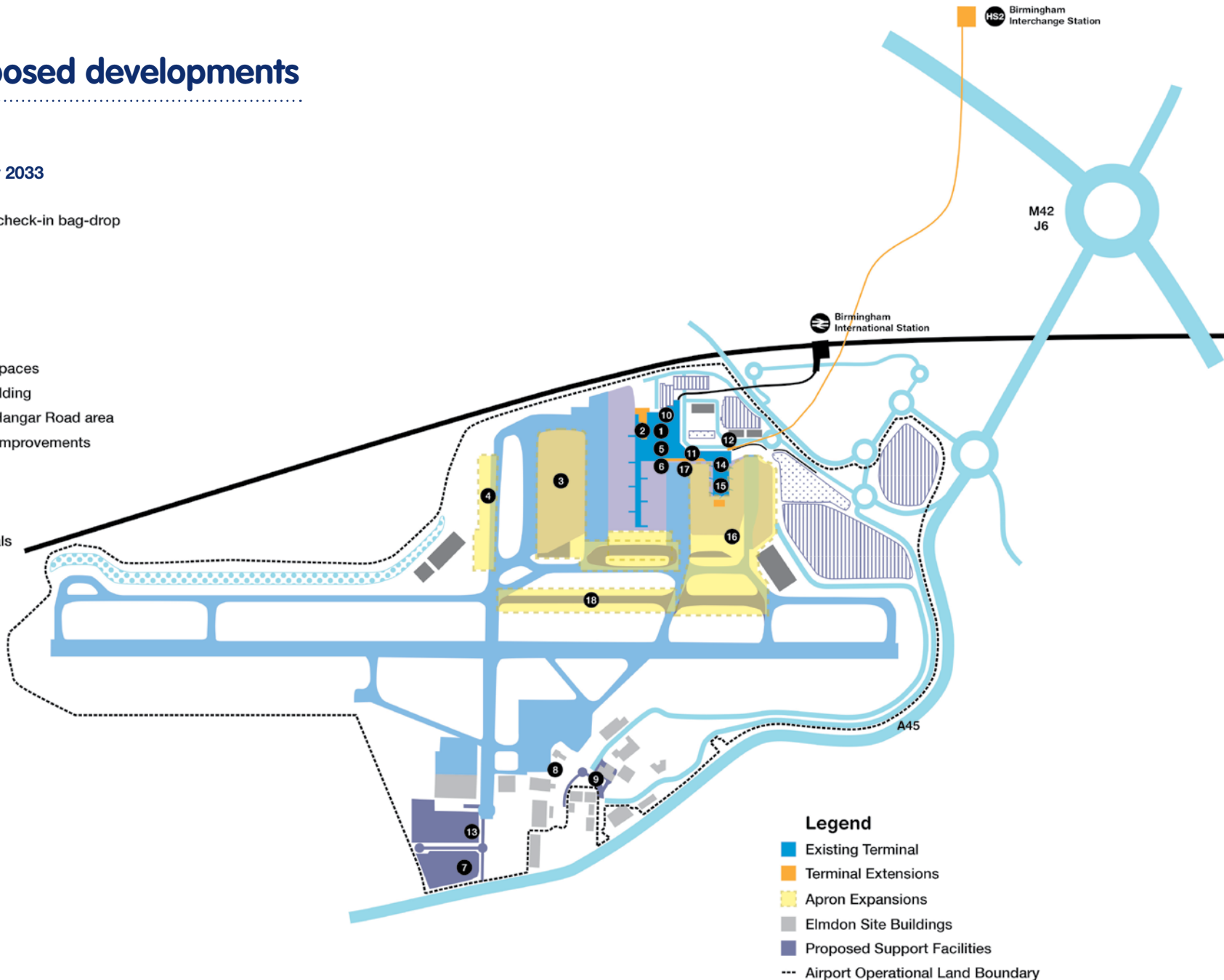
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date
1	Birmingham Airport	Consultation documents on Birmingham Airport Master Plan: https://www.bhxmasterplan.co.uk/full-master-plan/ http://www.bhxmasterplan.co.uk/	6/11/18
2	Birmingham Airport	Runway 33 Flight Path changes proposed: https://www.birminghamairport.co.uk/about-us/community-and-environment/flight-path-changes-north-runway33/ Relevant documents web page; https://www.birminghamairport.co.uk/about-us/community-and-environment/flight-path-changes-north-runway33/high-resolution-images/	30/04/18
3	Birmingham Airport	Birmingham Airport's draft Surface Access Strategy (ASAS) 2018 to 2023. https://www.bhxmasterplan.co.uk/surface-access-strategy/	6/11/18

Appendix B – Plans of proposed developments

Proposed developments by 2033


- 1 Expansion and upgrading of check-in bag-drop
- 2 Terminal extension
- 3 Stand reconfiguration
- 4 New stands
- 5 Additional 30m reclaim belt
- 6 International arrivals corridor
- 7 Additional 2000 car parking spaces
- 8 Refurbishment of Elmdon building
- 9 New airside security gate in Hangar Road area
- 10 Baggage lines and make-up improvements
- 11 Enlarged arrivals area
- 12 HS2 terminal connection
- 13 Car hire village relocation
- 14 Reconfigured domestic arrivals
- 15 New bussing lounge
- 16 Further stand reconfiguration
- 17 Airside security extension
- 18 New parallel taxiway

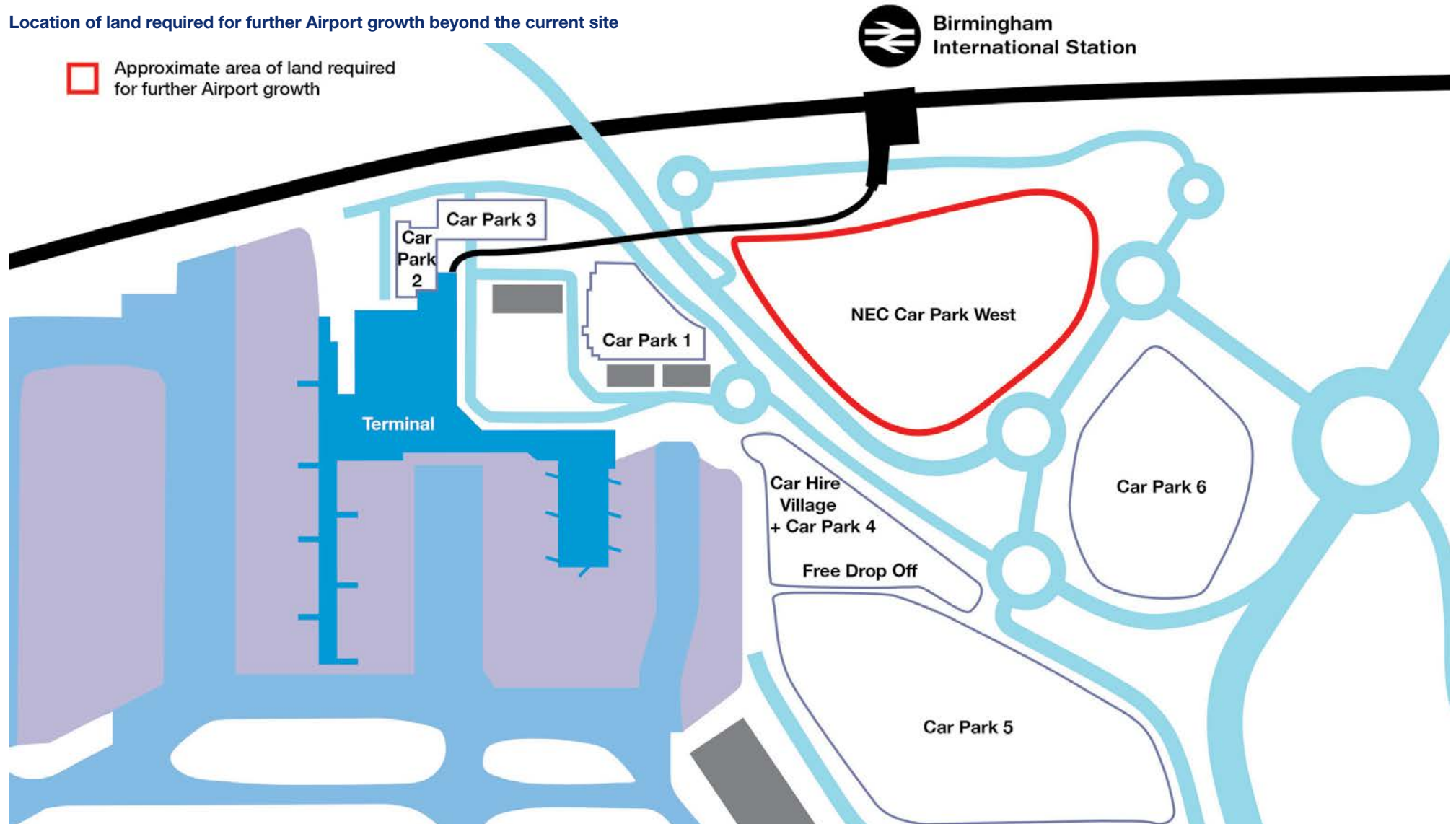


Legend

- Existing Terminal
- Terminal Extensions
- Apron Expansions
- Elmdon Site Buildings
- Proposed Support Facilities
- Airport Operational Land Boundary

Location of land required for further Airport growth beyond the current site

 Approximate area of land required for further Airport growth



Question 1

Do you agree that the best use should be made of the Airport's single runway in line with Government policy?

Yes ~~No~~

Any further comments – No further comments

Question 2

Do you agree that land should be safeguarded for the future expansion of the Airport as set out in Appendix C?

Yes ~~No~~

Any further comments – No further comments

Question 3

Would you find any further information helpful to understand the implications of expanding the Airport and if so what additional information should be provided?

Yes ~~No~~

Any further comments -

Question 4

Do you believe more could be done to maximise the employment and economic benefits resulting from Airport expansion, and if so what could be done?

Yes ~~No~~

Any further comments – The Borough would support and seek increased public transport links and services into adjoining local authority areas, including North Warwickshire, to maximise opportunities for Borough residents to both access education, employment and economic benefits and access the airport and its associated services and facilities, to support and benefit the airports economic base and future.

Question 5

Do you think more could be done to minimise the environmental impacts of an expanded Airport, and if so what could be done?

Yes ~~No~~

Any further comments – The Borough support increasing public transport services to access the airport. minimise vehicle/car trips where possible but must ensure adequate accessible parking facilities are also put in place to accommodate the growth in passengers proposed.

Continuous monitoring of noise impacts, supporting research into and opportunities to reduce noise impacts, new technology for aircraft engines (efficiency, pollution and noise). The Borough support the Airport's commitment to "avoid, reduce or mitigate, where possible" the environmental impact of operations and the Noise Action Plan. They support the maintenance of, and would seek/support expansion of, the 'Sound Insulation Scheme' for households affected within the 63dB(A) Leq Summer Noise Contour.

This is of particular concern to the Borough Council as the recently submitted final proposal for Flight Path Changes - North (Runway 33) to the Civil Aviation Authority (following public consultation in 2017) includes a modified flight path design which, in response to direct feedback from consultees, will shift the SID centreline north of the village of Curdworth and closer to Junction 9 of the M42 (The SID or Standard Instrument Departures is a vertical profile following aircraft departure including an associated minimum rate of climb). This flight path lies within/crosses above and impacts on the Borough settlements of Curdworth, Water Orton, Lea Marston, Whitacre Heath and Shustoke (the Borough notes the current flight paths already affect/impact on these settlements to some extent and would seek to ensure any increases in noise impacts are noted and addressed for the proposed revised flight paths in view of the Master Plan's projected increase in passengers, operators, routes and flights).

Question 6

Do you agree with our approach to community engagement?

Yes ~~No~~

Any further comments – No further comments

Question 7

Do you have any other comments on our Master Plan?

~~Yes~~—No

Any further comments – No further comments

Agenda Item No 7

Planning and Development Board

14 January 2019

Report of the Head of Development Control

Article 4 Direction Wathen Grange Special School Mancetter

1 Summary

- 1.1 The report seeks confirmation taken by the Chief Executive in consultation with the Chairman of the Board, in the issue of an Article Four Direction in respect of this property.

Recommendation to the Board

- a) That the action be confirmed; and
- b) The applicant be invited to meet Members to discuss the future of the site

2 Consultation

- 2.1 The Chairman has agreed that this report should follow the action already taken

3 The Site

- 3.1 This is the site of the former Mancetter C of E primary school at the junction of Manor Road with Convent Lane. The newly completed extra care home known as The Laurels is at its rear along with a number of bungalows.

4 Background

- 4.1 Under Part 11 of the Town and Country Planning (General Permitted Development) (England) Order 2015, the demolition of buildings is generally treated as permitted development not requiring the submission of a planning application. Most demolitions take place as a consequence of the grant of a planning permission for the redevelopment of a site. Some however, do not. In these cases, an application is to be made to the Council for confirmation or not as to whether the prior approval of the Council is needed in respect of the method of demolition and how the land is to be restored. This in fact, would not be a normal planning application and thus the remit of the Council is tightly drawn. Moreover there is a strict time period for determination – 28 days. If no decision is reached in that period, the demolition can proceed by default. The exceptions to this “prior approval” approach, are if the building is a Listed Building or it is in a designated Conservation Area. In these cases a

Listed Building application or a Conservation Area Consent application is required.

5 Wathen Grange School

5.1 The Council recently received such a “Prior Approval” application to demolish the Wathen Grange Special School at the junction of Manor Road and Convent Walk in Mancetter. This school is probably better known as the former Mancetter C of E Primary School. Its location and some photographs are at Appendices A and B. The application was accompanied by sufficient detail in respect of the method of demolition and thus there was no reason to withhold a determination leading to its demolition.

5.2 Officers however considered that demolition here would be an adverse move. The reasons for retention are:

- a) The site was recently the subject of the grant of planning permission for its conversion to a single residential dwelling under reference PAP/2018/0378 in August this year. This would be the preferred re-use of the building and the permission still has several months to be taken up.
- b) The building itself is identified in the Mancetter Neighbourhood Plan within an aspiration to identify local non-designated heritage assets. This Plan is part of the Development Plan and thus carries full weight. The text reads, “Additional work carried out during May and June 2016 has enabled a number of local (non-designated) heritage assets to be identified. This underpins a policy aimed at protecting and enhancing heritage assets. Non-designated heritage assets may be buildings, monuments, sites, places, areas or landscapes identified as having a degree of significance meriting consideration in planning decisions but which are not formerly designated. Wathen Grange School building is a Victorian School. It is all that is left of the attractive and local historically/cultural significant school, following development of the school grounds for The Laurels extra care housing scheme. It is currently used as an independent special school, but may be subject to future change of use and development pressure.”
- c) The building has local heritage significance. It was included on the 1880 Ordnance Survey mapping showing as one of the very few buildings in the settlement at that time, when the Church, the alms-houses and the Manor collectively formed the nucleus of Mancetter. Though north of the designated Conservation Area the school is historic in its existence since it pre-dates immediate surrounding development and forms a landmark building in the streetscape making a contribution to the character and visual amenity of this part of Mancetter. It is also highly visible in the public realm. The surviving building is attractive and positively contributes to the street scene and history of the area. It has a strong communal value both for pupils who attended there and the teaching staff having had a strong presence for over 125 years. The building although altered retains its original scale, appearance and attractive features, typical of the vernacular in Warwickshire with the bricks likely to have been sourced locally. Three tall chimney stacks and terracotta pots finish the elevated

proportions. In all it is a subdued style of architecture in the ecclesiastical gothic style, favoured by church schools of this period.

- d) Core Strategy Policy NW14 carries full weight. It states that “quality, diversity and local distinctiveness of the historic environment will be conserved and enhanced”. It continues “Wherever possible, a sustainable reuse of redundant historic buildings will be sought seeking opportunities to address these heritage assets identified as most at risk”. Demolition here would not in principle accord with this policy.
- e) The National Planning Policy Framework gives weight too to non designated heritage assets. In para 185, it states that, “Plans should set out a positive strategy for the conservation of heritage assets and outing them to viable uses consistent with their conservation”. In respect of non-designated assets it says “that a balanced judgement will be required to the scale of any harm and the significance of the asset”.
- f) The Parish Council and local Members support retention.

5.3 Given this situation officers reviewed the options for retaining the building. These are described below. However, in view of the proximity of the time period in which to make a decision on the Prior Approval application, it was necessary to act quickly on the preferred option and thus report on the reasons for selecting that option after the event. The preferred option has been discussed with the Chairman, local Members and Opposition planning members. They all supported that option.

6 The Options

- 6.1 The building could be protected by being included in an extension to the Mancetter Conservation Area. The problem with this option is that the area surrounding the building is not of Conservation Area standing or status and neither could it be said that it plays a positive contribution to the setting of the existing Area. It would not therefore preserve or enhance the overall character and appearance of the established Area. Moreover any extension would have to be the subject of formal assessment and consultation which could not be achieved quickly.
- 6.2 The Council could serve a Building Preservation Notice on the building which would effectively “list” the building for six months. It would then be for the Secretary of State to decide whether to add the building to the List or not. There are two issues here. Firstly the building has been altered at the rear with some quite significant modern extensions and upvc windows have been added. From an objective viewpoint, it is not considered that the building would be added to the List. This view is agreed by the Council’s own Heritage Officer and by its outside consultant. The second issue is that if the building is not subsequently “listed”, the Council could be the subject of a claim for compensation. Given the conclusion above, it is considered that this approach carries a high risk of not succeeding.

- 6.3 The third option is to make a Direction under Article Four of the General Permitted Development Order 2015. A Direction enables a Local Planning Authority to withdraw permitted development rights from an area defined by a plan attached to the Direction. The Direction would need to identify which rights are withdrawn. Here that would be withdrawal of Part 11 rights – i.e. demolition. A Direction does not prevent development, all it does is to require a full planning application to be submitted if the applicant wishes to carry out works covered by the Direction. Here the applicant could still seek demolition, but with need to submit a full planning application, rather than a prior approval. The Council then would determine that application taking into account all material planning considerations and planning policy – in other words those matters referred to in section 5 above.
- 6.4 This option is worth explaining further. There are defined exceptions – such as where it would prevent or restrict work by Statutory Undertakers; in emergency situations or if the building is an asset of community value. The defined exceptions do not apply here and thus a Direction can be made.
- 6.5 The Council too has the option of making an immediate or a non-immediate Direction. A non-immediate Direction can only withdraw rights upon confirmation by the Local Planning Authority after local consultation. The Authority however can make an immediate Direction, but it must be confirmed after local consultation within six months of its making. Immediate Directions are thus intended to cover urgent matters, but in view of their “severity”, they are not universally to be made and thus can be used only in defined circumstances. Demolition under Part 11 is included. As such the Council can serve a Direction here. The Secretary of State has to be notified on the Direction.
- 6.6 There is a consequence however in serving an immediate Direction. This is that the Council could be liable to a compensation claim. However the parameters for making a claim are defined. A claim has to be made within twelve months of the making of the Direction and:
- a) the Council has to have refused planning permission for development which would otherwise have been permitted, or
 - b) it grants planning permission subject to planning conditions more limiting than the General Permitted Development Order.

The grounds on which a claim can be made do need to be considered as option (a) above is a possible outcome. That claim could refer to abortive expenditure, loss or damage directly attributable to the withdrawal of the permitted development rights and the depreciation in the value of the land.

7 Other Information

- 7.1 Members should be aware that officers have received a pre-application enquiry about the future of the site. That proposes demolition and the erection of a two/three storey residential block facing Convent Walk and comprising up to nineteen units. It would appear that the redevelopment of a cleared site is a real possibility here. The possibility of a compensation claim is thus a possibility.

8 Observations

- 8.1 Officers have taken legal advice on this matter and all are agreed that the option of an Article Four Direction is the one to follow should the Board wish to “protect” this building until its future is resolved. The pre-conditions for making an immediate Order are all present and the reasons for making the Direction, as set out in Section 5 above, are considered to carry weight. This is because of the earlier grant of permission for the conversion and the fact that the Development Plan policy actually identifies this building. In other words the Direction would be a logical and reasonable consequence of that earlier planning decision. The issue is thus whether the compensation provisions would outweigh that conclusion.
- 8.2 This is a serious consideration of substantial weight. However Members have taken comfort from the grounds for making such a claim. In particular there is an opportunity here for Members to invite the applicant to meet them to discuss the future of the site before the Direction is confirmed or not. Hopefully that discussion could result in an agreed scheme. The Chairman and Members were agreed that this was a preferred way forward.
- 8.3 In view of the time periods involved, the Chief Executive has used his emergency powers in this respect. This report therefore seeks the Board’s confirmation of that action.

9 Report Implications

9.1 Finance and Value for Money Implications

- 9.1.1 There is a possibility here that a compensation may be sought from the Council. The grounds for such a claim are set out in the report. The invitation to review the future of the site may avert such a claim

9.1.2 Environment, Sustainability and Health Implications

The conservation, protection and enhancement of the Borough’s heritage is a significant objective in the Council’s Development Plan as well as in its priorities.

The Contact Officer for this report is Jeff Brown (719310)