

Report of the Corporate Director of Planning & Community Services

Address LAND WEST OF HEATHROW AIRPORT INCLUDING BEDFONT COURT
HEATHROW AIRPORT HOUNSLOW

Development: Proposed Heathrow Airtrack Order (Consultation under sections 1 and 5 of the Transport and Works Act 1992)

LBH Ref Nos: 66224/APP/2009/1689

Drawing Nos: Environment Statement
Heathrow Airtrack Order Design and Access Statement HEAT-HA-MDE-
REP-24020-01
Deposited Plans and Sections - Location Plan and Sheets 9,10, 17 and 21
The Heathrow Airtrack Order - Application, Draft Order and Supporting
Documents 2009

Date Plans Received: 03/08/2009

Date(s) of Amendment(s):

Date Application Valid: 03/08/2009

1. SUMMARY

As part of the Terminal 5 development, two rail platforms and tunnels were built that were safeguarded for development of rail to the west. The proposed Airtrack Scheme would connect Heathrow Airport to the south and south west of London and the surrounding regions. Services would operate to Reading, Guildford and London Waterloo and would be in addition to those already operating on these lines. At the same time, some Heathrow Express services would be extended through Heathrow Terminal 5 to Staines. It would also safeguard a potential route to the north.

Whilst, in principle, public transport schemes are welcomed, the Council finds itself in a difficult position. It is being consulted on a proposal for a scheme which was supported by the Secretary of State in making his decision on the third runway. This is a decision that the Council contends is irrational and unlawful and is the subject of a separate legal challenge. For the Council to even consider supporting this proposal, the promoter of the scheme would need to clarify that it is required for the existing two runway airport to encourage public transport access to Terminal 5.

The scheme within Hillingdon would involve the construction of a tunnel from Bedfont Court to the south west under the Colne River and Airport Way, and to the east under the A3044 on green belt land. While the land would be restored upon completion of this tunnelling work, there would be a number of substantial permanent structures including intervention and escape buildings and shafts up to eight metres in height and an access road that would be retained. These permanent physical structures would adversely impact upon the visual amenity value and openness of the Green Belt. It is argued by the promoters of the Scheme that these structures cannot be located elsewhere and are essential to a strategic infrastructure scheme identified as a regional transport priority. However, Officers are of the view that there is no strong supporting evidence to justify that special circumstances exist to justify this proposed development in the Green Belt. Given that the primary benefit of the scheme would be for those travelling from the south and west to Heathrow, not through the Borough, combined with the impact that the proposed development would have on Green Belt land, it is recommended that the Council objects

to this proposal.

Irrespective of our objection to the scheme, there are a number of additional conditions that have been identified that should be included if the Scheme were to go ahead. These are largely centred on construction impacts and surface access.

2. RECOMMENDATION

1. That this Committee resolves that a recommendation is made to the full Council that it pass such resolutions as are necessary and expedient to enable the Council oppose the Order in so far as necessary to ensure that the Order is opposed on the grounds identified in this report and set out to the stage necessary to secure the objectives identified in this report.

2. That the Committee note that the key grounds identified in this report are that:

(a) Insufficient evidence has been provided to justify the special circumstances that exist to justify development in the Green Belt in accordance with PPS2 and Saved UDP Policy OL1

(b) Clarification is required that the proposed development is required for the existing two runway, 5 terminal airport and is not for the purpose of supporting the third runway development consistent with Saved UDP Policies A1 and A2.

3. That if the Order is progressed, that Delegated Powers be given to the Director of Planning & Community Services to negotiate any conditions relating to the Order.

3. CONSIDERATIONS

3.1 Site and Locality

The proposed site principally comprises land which has recently been restored for potential agricultural use as part of the Terminal 5 development between the A3044 and the Colne River. It includes part of Bedfont Court which comprises a number of redundant smallholdings. The exception is 14 Bedfont Court which could be occupied and would be directly affected by the proposed development. It would be acquired by compulsory purchase prior to the commencement of works.

Part of the site has been subject to previous mineral extraction and waste infilling. There are some minor flood mitigation works in place which were undertaken during the construction of Terminal 5.

The remainder of the site between the Colne River and Airport Way has been subject to spoil deposition as part of the Terminal 5 development. Again, this site has been restored and has a permissive path running alongside the river.

The site is designated as Green Belt land, and is within a Comprehensive Rehabilitation Area. The closest residential properties are in Spout Lane North where there are approximately seven occupied dwellings, the nearest being approximately 150m to the south of the site. Residents in Stanwell Moor within Spelthorne Borough Council would also be impacted by the proposed development.

3.2 Proposed Scheme

The current consultation relates to the submission by BAA to the Secretary of State for

Transport for an Order under the Transport and Works Act 1992 (TWA) on 24th July 2009 for Airtrack. This application seeks to authorise the works required and the acquisition of any land that is needed either temporarily or permanently.

The deadline for responses on the TWA submission is 18th September 2009. Once the Secretary of State has had an opportunity to consider the application, a decision will be made on whether a public inquiry should be held into the proposals. If a public inquiry is required, this is likely to be held in early 2010. The proposal is to start construction works in early 2011 and to have Heathrow Airtrack services operating by late 2014.

Because of the nature of the Scheme, if the Committee decided to object to it, this objection would need to be ratified by full Council at its next meeting on 2 November 2009. An interim holding response would be sent to the Secretary of State prior to the closing date for comments.

The proposed Airtrack Scheme would link Heathrow to:

- To London Waterloo with stops at Clapham Junction, Richmond, Twickenham, Feltham and Staines (two trains per hour in each direction)
- South to Guildford with stops at Woking and Chertsey (one train per hour during peak periods direct between Guildford and Terminal 5 and two trains per hour at other times stopping at Chertsey and Woking)
- Westwards to Reading with stops at Wokingham and Bracknell (two trains per hour)

In addition, the construction of Airtrack will allow the Heathrow Express service to be extended through to Staines, providing a direct link from Staines to Terminals 1, 2 and 3 and Paddington.

Airtrack services would run on existing track over a large part of their routes. However a new line is needed from Heathrow to the Windsor Line and a new section of track at Staines to take the through services from Heathrow to Reading and Guildford. The proposals would involve:

- Tunnelling from Heathrow Terminal 5 to Stanwell Moor
- Construction of a new rail line across Stanwell Moor and Staines Moor
- Building a new section of track in Staines town centre (known as the chord)
- Remodelling Staines station and
- Building a train depot at Feltham.

Under the TWA, Heathrow Airport Limited are seeking a direction from the Secretary of State that planning permission be granted, subject to draft conditions set out, for the works specified in the Order and any other development that is proposed by the Order. The draft conditions, of relevance to Hillingdon, require the promoter of the development:

- To commence development within 5 years
- To submit a Code of Construction Practice for the approval of the local planning authority in relation to worksites in their area
- To assess the degree and nature of contamination for the approval from the local planning authority for any associated measures or treatment
- To submit a Scheme of Archaeological Investigation for the approval of the local planning authority for the Scheme and any mitigation measures
- To submit details of the external materials of the surface structures for the approval of the local planning authority
- To undertake a baseline ecological survey of reptiles, bats, water voles and otters and submit details of the results of the survey and appropriate mitigation measures for the approval f

- To submit a landscaping scheme, including any appropriate ecological enhancement, mitigation and compensatory measures, for the approval of the local planning authority. Any trees that are planted that die within the first three years are to be replaced.

With the exception of the landscaping scheme, these conditions are required to be submitted prior to the commencement of development.

3.3 Relevant Planning History

Comment on Relevant Planning History

Proposals for such a link have been in existence since 1960. Earlier schemes developed in the 1960s, 1970s and 1980s were discounted in favour of extending the Piccadilly Line. The current proposal was put forward by the AirTrack Forum, a group of local authorities and other public and private bodies set up in 2000.

In 2001, as part of the Terminal 5 planning permission at Heathrow, BAA was required to safeguard platforms associated with the development for the future development of rail to the west of the airport. The station at Terminal 5 has been constructed with six platforms, two used by Piccadilly Line Services, two used by Heathrow Express services and two additional heavy rail platforms. In addition, an underground route from the station to the airport's western boundary has also been safeguarded, providing the infrastructure for Airtrack services.

The 2003 Future of Air Transport White Paper requires airport operators to increase the proportion of passengers who access airports by public transport and to demonstrate how they propose to achieve this. In their Interim Master Plan for Heathrow Airport, published for consultation in 2005, BAA stated that they supported the principle of creating new rail access from Heathrow Airport to the south west rail network, where it can be provided in a timely fashion and where funding issues can be resolved. BAA's Surface Access Strategy - Sustaining the Transport Vision 2008-2012 makes it clear that Airtrack will contribute to achieving modal shift within the existing permissions for a two runway, five terminal airport.

In responding to comments on this consultation, the Secretary of State commented that "An expanded Heathrow could benefit from the following main heavy rail services" (p103 para 3.166) - Airtrack was included in this list. In making his decision on the third runway on 15 January 2009, the Secretary of State for Transport said that "he welcomes the collaborative approach being followed by BAA in developing the AirTrack project and encourages all interested parties to participate in the consultation and the Transport and Works Act process, with a view to seeing that scheme implemented ahead of a third runway"(p22). The Council has challenged the Secretary of State for Transport's decision on the third runway on the grounds that it was irrational and unlawful.

4. Planning Policies and Standards

Unitary Development Plan Saved Policies September 2007
London Plan (consolidated with Alterations since 2004)
Council's Supplementary Planning Guidance - Noise
Council's Supplementary Planning Guidance - Air Quality
Council's Supplementary Planning Document - Contaminated Land

UDP / LDF Designation and London Plan

The following UDP Policies are considered relevant to the application:-

Part 1 Policies:

- | | |
|--------|--|
| PT1.1 | To maintain the Green Belt for uses which preserve or enhance the open nature of the area. |
| PT1.2 | To maintain Metropolitan Open Land for formal and informal open air recreation facilities including nature conservation. |
| PT1.7 | To promote the conservation, protection and enhancement of the archaeological heritage of the Borough. |
| PT1.27 | To ensure that development at Heathrow Airport for airport purposes mitigates or redresses any adverse effects on the environment. |

Part 2 Policies:

- | | |
|----------|---|
| OL1 | Green Belt - acceptable open land uses and restrictions on new development |
| OL5 | Development proposals adjacent to the Green Belt |
| OE1 | Protection of the character and amenities of surrounding properties and the local area |
| A2 | Developments at Heathrow airport likely to increase demand for off-airport development or have significant adverse environmental impact |
| A4 | New development directly related to Heathrow Airport |
| AM2 | Development proposals - assessment of traffic generation, impact on congestion and public transport availability and capacity |
| AM7 | Consideration of traffic generated by proposed developments. |
| BE3 | Investigation of sites of archaeological interest and protection of archaeological remains |
| OE8 | Development likely to result in increased flood risk due to additional surface water run-off - requirement for attenuation measures |
| OE11 | Development involving hazardous substances and contaminated land - requirement for ameliorative measures |
| MIN20 | Proposals involving landfilling, re-working or disturbance of old landfill sites - gas control and monitoring requirements |
| LPP 4A.7 | London Plan Policy 4A.7 - Renewable Energy |
| LPP3D.9 | Green Belt |

5. Advertisement and Site Notice

5.1 Advertisement Expiry Date:- **26th August 2009**

5.2 Site Notice Expiry Date:- Not applicable

6. Consultations

External Consultees

Consultation letters were sent to residents in Spout Lane North, the Arora Hotel Group which owns Bedfont Court and the Longford and Harmondsworth and Sipson Residents Associations. No

responses were received.

The application was advertised in the Uxbridge Gazette and will need to be advertised again if the Central and South Planning Committee accepts the recommendation that the Council oppose the proposed Order.

The Secretary of State for Transport has consulted a number of other bodies, including the Greater London Authority, Environment Agency and other local planning authorities directly. We have sought comments from several statutory bodies where relevant to the Hillingdon element of the proposal.

ENVIRONMENT AGENCY

The Environment Agency is planning to submit comments directly to the Secretary of State. They will advise us if they have any comments of relevance to that element of the scheme within the London Borough of Hillingdon in advance of the meeting.

BAA SAFEGUARDING

No comments have been received. Any comments received will be reported at the meeting.

ENGLISH NATURE

English Nature has objected to the application on the grounds that insufficient information has been submitted to assess the effect on South West London Water Bodies and also on the grounds that it will have a significant impact on the Staines SSSI. English Nature also argues that inadequate consideration of alternative routes to Heathrow and discounted options for the Airtrack route have not been adequately justified.

Internal Consultees

The comments received from internal consultees have been incorporated into the body of this report.

7. MAIN PLANNING ISSUES

7.01 The principle of the development

Whilst, in principle, public transport schemes are welcomed, we are in a difficult position of being consulted on a proposal for a scheme which was supported by the Secretary of State in making his decision on the third runway. This is a decision that the Council contends is irrational and unlawful and is the subject of a separate legal challenge. For the Council to even consider supporting this proposal, the promoter of the scheme would need to clarify that it is required for the existing two runway airport to encourage public transport access to Terminal 5. The Council's Highways Officer has suggested that this should include proposals for the phased reduction in parking provision at Heathrow to reflect changes in anticipated demand following the commissioning of Airtrack.

The scheme within Hillingdon would involve the construction of a tunnel from Bedfont Court to the south west under the Colne River and Airport Way, and to the east under the A3044 on green belt land. While the land would be restored upon completion of this tunnelling work, there would be a number of substantial permanent structures including intervention and escape buildings and shafts up to eight metres in height and an access road that would be retained. It is argued by the promoters of the Scheme that these structures cannot be located elsewhere and are essential to a strategic infrastructure scheme identified as a regional transport priority.

However, there is not a strong supporting evidence base provided to support this claim. The cost of the scheme is estimated at £670 million with an anticipated benefit in terms of modal shift of only 1-2%. Given that 22% of passengers and 50% of staff come from within the Airtrack catchment, the modal shift does not appear, on the surface, to be significant.

There appears to be limited direct benefit to Hillingdon given that this modal shift would largely be for passengers coming to Heathrow from the south and west without passing through the Borough. Clear transparent evidence needs to be provided with regard to the benefits this scheme would bring in relation to relieving congestion on the surrounding road networks and quantification given of the expected improvements to modal shift for access to the airport.

7.02 Density of the proposed development

Not relevant

7.03 Impact on archaeology/CAs/LBs or Areas of Special Character

English Heritage is also a consultee in relation to this Order and has been consulted separately. They have not provided any comments on this application directly to the Council.

It is noted that this site does not fall within an Archaeological Priority Area and there are no Conservation Areas, listed buildings or Areas of Special Local Character within the vicinity. However, it is noted in the Environmental Statement that a good part of this section of the Scheme has been subject to archaeological field evaluation the archaeological potential of the site is recognised in the Environmental Statement.

It is noted in the Environmental Statement submitted with the application that a good part of this area has been subject to archaeological field evaluation. However, it is considered that much of the archaeological resource will have been destroyed as a result of sand and gravel extraction and that any features that remain are likely to be of local importance only. It is noted that the excavation of the tunnels could result in a reduction in the significance and integrity of locally important archaeological resources giving rise to a slight adverse permanent effect. Proposed mitigation would take the form a programme of archaeological works. To this end, Draft Condition 31 requires a written scheme of archaeological investigation covering the ground to be disturbed by the works approved by the Order has been submitted to and approved by the local planning authority and implemented in accordance with the approved scheme.

7.04 Airport safeguarding

No comments have been received from BAA Safeguarding. It is understood that they are a statutory consultee and would have been consulted by the Secretary of State for Transport directly. Any comments received will be reported at Committee.

7.05 Impact on the green belt

In accordance with PPS2, development in the Green Belt must be justified on the basis of very special circumstances, given that the proposed works would be deemed inappropriate development. As explained in section 7.01 above, it is not considered that these circumstances have been adequately justified.

Policy OL5 of the UDP Saved Policies 2007 also seeks to protect the Green Belt from nearby developments, which may prejudice its visual amenity. This land provides an important visual barrier between the Terminal 5 development at Heathrow and the M25. It also forms part of the gateway to the UK from Terminal 5, consistent with the Campus Design Guidelines agreed by BAA and LB Hillingdon. The importance of maintaining this green belt land was recognised by the Planning Inspector in making his decision on Terminal 5.

The land on which the tunnels would be constructed has largely been restored as part of the Terminal 5 development. While there would be a temporary impact on the green belt during the construction of the tunnels, the land would be restored at the end of

construction. This impact would be acceptable. However, the proposed development also incorporates the construction of two sets of structures above ground. The south eastern compound would be approximately 75 metres by 35 metres and would contain:

- a tunnel ventilation building approximately 8 metres high above ground level
- an intervention and emergency escape building, which could be up to 6 metres high; and
- an equipment room and substation which will be approximately 5 metres high.

The north-western compound would contain an intervention and emergency escape building as well as an electrical equipment room and substation. While not specified in the application documents, it appears that the compound would be slightly smaller with buildings of up to 6 metres in height.

The two compounds would be connected to the A3044 by an access road and footway. It is proposed that the buildings be of a contemporary design fitting to their location and that materials and finishes be chosen from a palette which includes steel, aluminium, concrete, brick and block. This would suggest that it would tie the proposals to those on airport, which would have the effect of visually extending the airport boundary as well as having a detrimental impact on this green belt land. If the scheme gained approval, it is suggested that it would be more appropriate to minimise the impact in the same way as achieved through the Heathrow Express development which included grass covered mounds and a 'barn' in Sipson to hide the operational structures associated with the development. In accordance with the proposed conditions in relation to the Order, details of the external appearance and landscaping would be reserved for subsequent approval by the local planning authority. However, rather than these details being submitted prior to the completion of the Bedfont Court Tunnel as proposed, it is considered more appropriate that they be submitted prior to the commencement of development, particularly, if mounding were to be used to minimise the impact of the development.

7.07 Impact on the character & appearance of the area

Section 7.05 on the Green Belt addresses the impact on the character and appearance of the area. As noted, if the Scheme was approved, any landscaping and materials would be subject to local planning authority approval and would need to be sensitively designed to minimise the impact of the development and maintain its rural character.

7.08 Impact on neighbours

The construction will take place over 4 years with construction works being undertaken from 2011-2013 with commissioning during 2013-2014. The Bedfont Court site is proposed to be used as a work site and could include a concrete batching plant. It is unknown whether this would provide concrete for the tunnels only or other parts of the development as well. It is estimated that a total volume of approximately 273,000m³ would be excavated during construction with the majority used as backfill once the tunnels have been built. Some of spoil may be contaminated and have to be removed from the site. The traffic impacts associated with these works are dealt with in section 7.10.

Local residents in Spout Lane North as well as those in Stanwell Moor within Spellthorne District Council would be adversely affected during construction. A Draft Condition has been included within the Order requiring that a Construction Code of Practice be submitted and approved in writing by the local planning authority before the development commences on the worksite. The Construction Code of Practice covers issues such as protocols for noise and dust monitoring, traffic management including lorry movements and routes, hours of operation, site waste management, contaminated land management, ecology management, lighting and layout of site, emergency planning, use of cranes, noise and vibration, and protection of existing infrastructure.

The Council's Air Quality Officer supports the appointment of a Site Environment Manager is welcomed and use of the Construction Code of Practice and Environmental Management Plan to mitigate impacts. The GLA Best Practice Guidance for control of dust and emissions from construction and demolition is referred to and will act as the basis for the control measures and monitoring, where relevant, are welcomed.

The Council's Noise Control Officer also supports the use of the Construction Code of Practice, combined with the Environmental Management Plan, and requirement to apply for consent under Section 61 of the Control of Pollution Act 1974. The Council's Noise Control Officer also noted that there have not been any residents identified within Hillingdon who would be significantly impacted from construction noise and vibration despite the nearest residential property being less than 150m from the site.

Overall, it is considered that the construction impacts on residents could be adequately mitigated through the Construction Code of Practice, however, it is considered more appropriate for a single Construction Code of Practice be used for the whole of the development rather than separate Codes of Construction for individual worksites. This would ensure consistency of approach and enable the cumulative impacts to be fully assessed and mitigated, particularly where they cross local planning authority boundaries.

7.09 Living conditions for future occupiers

The only potentially occupied property on land directly affected by the proposed scheme is located at 14 Bedfont Court. This site will be compulsorily purchased prior to works commencing on site.

7.10 Traffic impact, Car/cycle parking, pedestrian safety

Section 7.01 highlights the lack of detailed analysis of the benefits of the Airtrack Scheme, which it is anticipated will achieve a 1-2% modal shift. It emphasises the need to demonstrate the impact that the Scheme would have on local roads and in minimising car parking requirements at Heathrow Airport.

There will be three worksites in the vicinity which will generate traffic impacts during construction.

The Bedfont Court main works site. This site which would be accessed from the M25 Junction 14 via A3113 Airport Way, and A3044 Stanwell Moor Road. Depending on whether the text or Figure 2.11 of the Environmental Statement is used, there may also be an access via Spout Lane to Bedfont Court. Tunnelling work on the site would be likely to use a combination of bored and cut and cover construction techniques. Of the 273,000m³ of spoil to be excavated on the site, approximately 240,000m³ would be used as backfill with the remaining contaminated material removed from the site. Another 11,000m³ of backfill may need to come from offsite location. As noted previously, there may be a concrete crushing plant on site.

The Terminal 5 worksite, which would be accessed via M25 Junction 14 leaving via the same route. It is unclear whether the T5 Spur Road will be used to access the site. Works on this site will be associated with the access to the platforms and linking to existing Heathrow Express infrastructure.

The Horton Road works site would be from the M25 Junction 14 via Horton Road and Leyland Road and back on the same route. It would be used for the diversion of a high pressure gas main and high voltage electricity cable as well as new rail sections and some

tunnelling works.

The Highways Officer would welcome the use of Construction Management Plan as part of the Construction Code of Practice to mitigate traffic impacts. The Highways Officer also noted that whilst the construction traffic peak hour flows are minimal in comparison to the network flows, even when considered cumulatively, in the absence of information confirming there is spare capacity at the Longford and A3113/A3044 roundabouts. If the proposed scheme was approved, a condition should be included restricting construction traffic outside peak hours, unless information is provided that satisfies the local planning authority that sufficient capacity has been provided.

It has been suggested by the Air Quality Officer that, if the Proposed Scheme is approved, a Construction Workers Public Transport Strategy be required to be submitted and approved by the local planning authority prior to the commencement of works. Given that the number of workers is not known, nor is it known how work sites will be utilised, it is considered that such a condition would be appropriate.

7.11 Urban design, access and security

The issue of urban design has been dealt with in sections 7.05 and 7.07 of this report.

There would also be a permanent access to the A3044 from the Bedfont site. If the proposed scheme was approved, the Highways Engineer has suggested that a condition should be included that provides details of this access so that any impact on existing roads can be assessed.

7.12 Disabled access

Not relevant

7.13 Provision of affordable & special needs housing

Not relevant

7.14 Trees, landscaping and Ecology

Section 7.05 addresses the impact of the proposed development on the landscape. This land has been recently restored as part of the Terminal 5 development and would be reinstated after the tunnels had been constructed, however the ancillary buildings and structures associated with the development would have a significant impact on this site.

With regard to ecology of the local area, Bedfont Court includes hedges and ditches that are a remnant of a former agricultural landscape and include old ash pollards, hazel and hawthorn of considerable age and are considered to be of Borough significance within the Environmental Statement. The extensive area of swamp adjoining the Colne is considered to be a typical habitat of the Colne Floodplain and has been identified as being of metropolitan significance. As noted previously, much of the land associated with the development has been recently restored for potential agricultural use as part of the Terminal 5 development.

Condition 32 has been included within the Draft Order requiring a baseline ecological survey of reptiles, bats, water voles and otters to be undertaken on land approved by the Order and appropriate mitigation submitted and approved in writing by the local planning authority. Condition 33 seeks to implement a landscaping scheme, subject to local planning authority approval, which would include ecological enhancement, mitigation and compensatory measures. It should also be extended to provide details of trees and hedges to be protected.

7.15 Sustainable waste management

Not relevant given the nature of the development.

7.16 Renewable energy / Sustainability

Airtrack is a public transport scheme with the aim of achieving a modal shift away from cars and taxis. As noted previously, an analysis of modal shift is part of the business case but is estimated to be 1-2%, which does not appear to be significant given the size of the catchment with 22% of passengers and 50% of staff.

The GLA is also a consultee in relation to this Order and has been consulted separately. They have not provided any comments on this application directly to the Council.

However, we would expect a detailed energy strategy to be submitted for the scheme. At this stage no information has been provided on the energy measures that will be implemented as part of the scheme. If the proposed scheme was approved, it may be appropriate to include a condition requiring an Energy Strategy to be submitted to the GLA for approval prior to the commencement of works.

7.17 Flooding or Drainage Issues

Flood Risk and Drainage has been addressed in Volume 7 of the Environmental Statement. It is not considered that there will be any significant impacts associated with the works within Hillingdon.

It is noted, in Volume 1 of the Environmental Statement that the Bedfont Court excavation should not affect the River Colne directly although it will require the minor diversion of field ditches in the area. It is noted that the Duke of Northumberland and Longford Rivers run in culverted sections immediately west of Terminal 5. At this point the proposed route would be in tunnel and well below any base of the rivers and so would not be impacted by the works.

The Environment Agency has confirmed that it will advise Officers prior to the Committee meeting if they identify any significant issues arising from their assessment of the proposed scheme.

7.18 Noise or Air Quality Issues

Air quality and noise issues have been dealt with in sections 7.01, 7.07, 7.08 and 7.10.

In addition, the Environmental Protection Officer dealing with noise matters, is satisfied that there will be no significant airborne noise impacts, or ground borne noise and vibration impacts in Hillingdon from train operations as the trains will be running in tunnels beneath the ground. The Officer has however, expressed concern about the impact of the development in relation to operational plant noise, particularly, for residents in Spout Lane North. It is suggested that if the proposed scheme is approved, that condition be given to the inclusion of a plant noise condition.

7.19 Comments on Public Consultations

No written comments have been received.

7.20 Planning obligations

Not relevant

7.21 Expediency of enforcement action

Not relevant

7.22 Other Issues

Contaminated Land

The main report (Volume 1) provides a general overview of the contamination assessment method, which to date appears to consist of a desk top study, and a basic qualitative risk

assessment which identifies the receptors that are likely to be affected by potential contamination during development works (a majority of the impacts) and operation. The source of the contamination identified so far consists of former landfill sites in the main; however there is very little detailed information about specific contaminants, although some of the types of waste/materials deposited in the landfills are provided. The report indicates more detailed site investigations would be carried out prior to construction.

The Environmental Protection Officer dealing with land contamination comments that with regard to contamination, the proposed development raises specific concerns about possible risks associated with:

- ground gas/vapours that may generated in this area and their impact on the development
- ground gas/vapours that may generated in this area impacting on neighbouring sites as a consequence of the development
- the generation of contaminated dust, asbestos fibres, noxious odours as a result of the development works, including from the storage of contaminated materials on the work site and from lorry movements
- the release of contaminants into surface water courses and groundwater as a result of the development works (including the flood mitigation works)
- ground contamination impact on the infrastructure (tunnel, proposed buildings) and future users of

The Environmental Protection Officer also notes that details of how the above risks will be identified and managed during the investigation, development and operational phases will need to be addressed to the satisfaction of the local planning authority in Part A and B of the Code of Construction Practice. Reports submitted in support of the Order also identified the relevant legislation, policies and good practice guidance documents with regard to land contamination, including Hillingdon's UDP policy OE11 and MIN 20. However, Hillingdon's Supplementary Planning Guidance on Land Contamination was not referred to in the reports. The reason for this is unclear and it should be incorporated as far as possible within the Code of Construction Practice if the scheme proceeds.

Impact on Permissive Paths in the area

It is noted that the permissive paths on the east of the Colne River would not be affected by the proposed Bedfont Court Development. The Council's Rights of Way Officer has also confirmed that there would be no other public rights of way directly affected by the proposed scheme.

Land in Council Ownership

Estates has confirmed that none of the land affected by the proposed development is in the ownership of the Council.

Public Highway.

The Council's Highways Officer has advised that, as the owner of the section of the A3044 that will be impacted by the development, full details of the methods of construction beneath the A3044 and any potential risks and impacts on the highway itself identified and mitigation measures proposed where appropriate. If the proposed scheme is approved, a condition should be included to this effect.

8. Observations of the Borough Solicitor

When making their decision, Members must have regard to all relevant planning legislation, regulations, guidance, circulars and Council policies. This will enable them to make an informed decision in respect of an application.

Under the provisions of the Transport and Works Act, the Council has power to promote or power to oppose Bills in Parliament, and also has power to apply for, or as the case may be power to object to this order proposed under the Transport and Works Act 1992. However, that power is conditional on compliance with the requirements of section 239 of the Local Government Act 1972 which requires the Council to resolve to oppose the order in full Council passed by a majority of the whole number of the members of the authority at a meeting of the authority held after the requisite notice of the meeting and of its purpose has been given by advertisement in one or more local newspapers circulating in the area of the authority, such notice being given in addition to the ordinary notice required to be given for the convening of a meeting of the authority. The notice must give 10 clear days notice of the Council meeting where the resolution is to oppose the order.

In addition, Members should note that the Human Rights Act 1998 (HRA 1998) makes it unlawful for the Council to act incompatibly with Convention rights. Decisions by the Committee must take account of the HRA 1998. Therefore, Members need to be aware of the fact that the HRA 1998 makes the European Convention on Human Rights (the Convention) directly applicable to the actions of public bodies in England and Wales. The specific parts of the Convention relevant to planning matters are Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

Article 6 deals with procedural fairness. If normal committee procedures are followed, it is unlikely that this article will be breached.

Article 1 of the First Protocol and Article 8 are not absolute rights and infringements of these rights protected under these are allowed in certain defined circumstances, for example where required by law. However any infringement must be proportionate, which means it must achieve a fair balance between the public interest and the private interest infringed and must not go beyond what is needed to achieve its objective.

Article 14 states that the rights under the Convention shall be secured without discrimination on grounds of 'sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status'.

9. Observations of the Director of Finance

While there are no S106 or enforcement issues involved, the recommendations could have financial implications for the Planning Committee or the Council as the Council, as an objector to the scheme, would have costs associated with any Public Inquiry and the preparation of supporting evidence. The officer recommendations are based upon planning considerations only and therefore, if agreed by the Planning Committee, they should reduce the risk of a successful challenge being made at a later stage. Hence, adopting the recommendations is likely to have an impact upon the Council's financial resources, and associated financial risk to the Council.

10. CONCLUSION

Whilst, in principle, public transport schemes are welcomed, the Council is in a difficult position of being consulted on a proposal for a scheme which was supported by the Secretary of State in making his decision on the third runway. This is a decision that the

Council contends is irrational and unlawful. For the Council to even consider supporting this proposal, the promoter of the scheme would need to clarify that it is required for the existing two runway airport to encourage public transport access to Terminal 5.

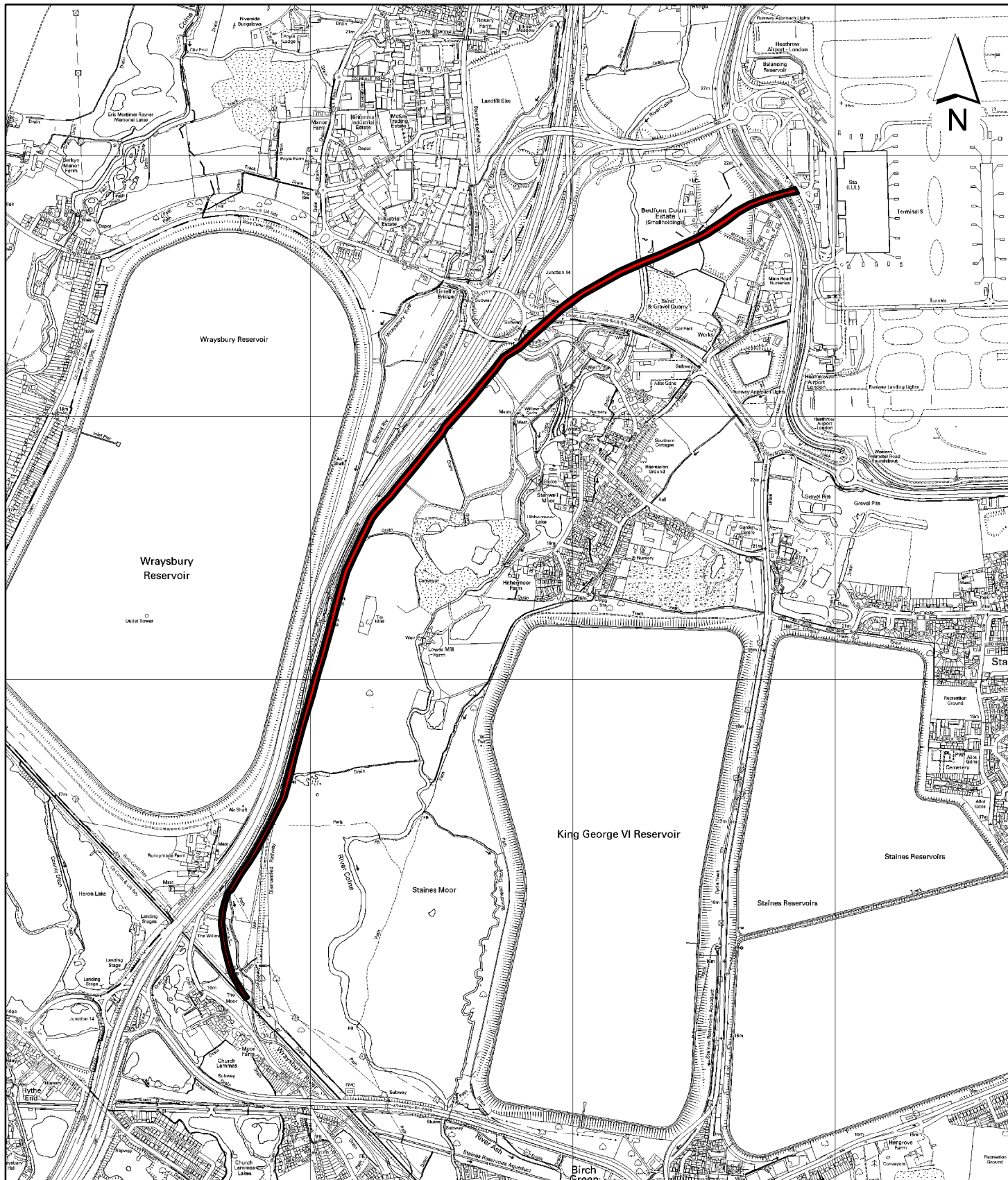
It is also of concern that the proposed development within Hillingdon is located on Green Belt land for which it is considered inadequate justification of the very special circumstances that exist for such a scheme to be supported.

If the scheme were approved, there would be construction impacts associated with the development. These would be mitigated through the use of conditions, including the approval of a Construction Code of Practice for the development by affected local planning authorities. This document should apply across the whole of the Scheme to reflect the cross boundary impacts the development is likely to have. Further conditions are suggested to mitigate construction impacts over and above those set out in the draft order including a Construction Workers Public Transport Strategy to further address concerns arising from the Order and associated documents.

11. Reference Documents

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Notes



Site boundary

For identification purposes only.

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100019283 2009

Site Address

**Land west of Heathrow Airport
including Bedfont Court,
Heathrow Airport, Hounslow**

Planning Application Ref:

66224/APP/2009/1689

Planning Committee

Central and South

Scale

1:20,000

Date

September 2009

**LONDON BOROUGH
OF HILLINGDON**

**Planning &
Community Services**

Civic Centre, Uxbridge, Middx. UB8 1UW
Telephone No.: Uxbridge 250111



HILLINGDON
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