

TWO DAY PLANNING COMMITTEE held at COUNCIL CHAMBER - COUNCIL OFFICES, LONDON ROAD, SAFFRON WALDEN, CB11 4ER, on FRIDAY 17 JANUARY at 10.00 am, re-convening on FRIDAY, 24 JANUARY 2020 at 11.00 am.

Present: Councillor S Merifield (Chair)
Councillors G Bagnall, P Fairhurst, R Freeman, G LeCount, M Lemon, J Loughlin, R Pavitt, N Reeve, G Sell (substituting for M Caton), A Storah and M Sutton

Officers in attendance: A Bochel (Democratic Services Officer), N Brown (Development Manager), K Denmark (Development Management Team Leader), G Glenday (Assistant Director - Planning), R Harborough (Director - Public Services), E Smith (Solicitor) and M Watts (Environmental Health Manager - Protection)

Also present: Councillors C Day, A Dean, G Driscoll, M Foley, A Gerard, N Gregory, V Isham, B Light, L Pepper and M Tayler
K O'Toole and J Twigg (Manchester Airports Group)
B Ross and P Stinchcombe (Stop Stansted Expansion)
P Coppell (Barrister)
D Sprunt and K Wilkinson (Essex County Council)

Post meeting note: There is no sound recording of this meeting

PC103 STATEMENT OF THE CHAIR

The Chair welcomed those present and stated that in order to comply with the Council's duty of care to its staff and Members the meeting would take place over two non-consecutive days. Day One would be devoted to public speakers and anyone with a pre-prepared text was requested to deposit a copy with the Democratic Services Officer. The meeting would adjourn at approximately 4.00PM and would reconvene on 24th January 2020.

It was further stated that planning permission had been granted on 14th November 2018 subject to conditions and to the entering into of a legally compliant S106 agreement. There was no lawful reason to revisit that decision and the purpose of the present meeting was to consider the adequacy of the mitigation package contained within the S106 agreement the text of which was included in the documents pack. The Council's officers and external legal advisers all considered that it complied with Regulation 122 of the Community Infrastructure Levy Regulations 2010 as amended. This is a mandatory requirement and anything more than that Regulation permitted would be void.

The Chair stated that the purpose of the Two Day meeting, as stated in the agenda, was to consider whether, having regard to the facts, circumstances and policies now applicable and to the earlier resolution in favour of the application, the information that has been so far supplied in support of the application

UTT/18/0460/FUL is sufficient to convince the Council that it should authorise the grant of planning permission for that development application or whether than information falls short of doing so.

The Chair also referred to the resolution of the Extraordinary Council Meeting held on 28 June 2019.

Officers confirmed that the draft S106 agreement as it stood complied with Regulation 122 Community Infrastructure Levy Regulations 201 as amended This is a mandatory requirement and anything more than the Regulation permitted would be illegitimate and could be struck down by a Court.

PC104 **APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST**

Councillor Fairhurst said he sat on the Planning Committee when this application was considered in November 2018. He entered the meeting with an open mind.

Councillor Reeve said he was a ward member for Broad Oak and the Hallingburys and entered the meeting with an open mind.

Councillor Freeman said he sat on the Planning Committee when this application was considered in November 2018. He entered the meeting with an open mind.

Councillor Loughlin said she sat on the Planning Committee when this application was considered in November 2018. She entered the meeting with an open mind.

Councillor Sutton said she was a member of Stop Stansted Expansion. She entered the meeting with an open mind and did not pre-determine.

Councillor Bagnall said he was a ward member for Takeley.

Councillor Lemon said he was the ward member for Hatfield Heath and sat on the Planning Committee when this application was considered in November 2018. He entered the meeting with an open mind.

PC105 **PUBLIC SPEAKING**

Members of the public who had registered their intention to speak gave statements to the Committee. A full list of those that supported, objected and commented on the application is included in the table below.

Planning Speakers – 17 January 2020	
Name	Object/support
Martin Peachy	Object
John Farrow	Support
Parish Councillor Andy Bennett	Object
Councillor Vere Isham	Object

Parish Cllr Patricia Barber	Object
Jonathan Fox	Object
Councillor L Pepper	Object
Ray Woodcock	Object
Michael Young	Object
Town Cllr Terry Moore	Object
Irene Jones	Object
Parish Cllr Christina Cant	Object
Parish Cllr David Hall	Object
Peter Jones	Object
Suzanne Walker	Object
Peter Sanders	Object
Ken McDonald	Object
Robert Beer	Object
Jane Gray	Object
Parish Councillor Andy Dodsley	Object
Parish Cllr West	Object
Sarah Cousins	Object
Stephen Boulter	Object
Janet Robinson	Object
Tony Jones	Support
Russell Graham	Support
Monika Simonaityte	Support
Chris Hardy	Support
Neil Banks	Support
Joanne Kitteridge	Support
Alex Smith	Support
Nick Millar	Support
Mark Lucas	Support
LUNCHEON AJOURNMENT	
Julien Sample	Support
Nicola Ward	Support
J A Devoti	Object
James Sloan	Support
Andrew Brambridge	Support
Sam Johnson	Support
David Burch	Support
Chris Hindle	Support
Maddison Broadbent	Support
Emily Ferris	Support
Stuart Moodie	Support
Scott Barlow	Support
Edward Gildea	Comment
Councillor Geoff Driscoll	Comment
Jangu Banatvala	Comment
Michael Belcher	Comment

Councillor Alan Dean	Comment
Louise Yellowlees	Comment
Raymond Beverley	Speak
Mike Fairchild	Speak
Parish Councillor Tayler	Speak
Parish Councillor Webb	Speak
Margaret Beer	Object
Mr Aldridge	Object

The meeting adjourned at 3.50pm until 11.00am 24th January 2020.

DAY TWO

PC106 DISTRICT COUNCILLORS SPEAKING SESSION

The meeting reconvened at 11.00am on 24 January 2020.

The Chair welcomed people to the meeting and confirmed the procedure that would be followed. The Chair clarified that the purpose of the meeting stemmed from the resolution of the Extraordinary Council Meeting held on 28 June 2019 and read as follows:

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RESOLVED that:

In accordance with Section 70(2) of the Town and Country Planning Act 1990 as amended by Section 143(2) of the Localism Act 2011 to instruct the Chief Executive and fellow officers not to issue a Planning Decision Notice for planning application UTT/18/0460/FUL unless and until the Council's Planning Committee have had a sufficient opportunity to consider in detail, as timely as possible: (i) the adequacy of the proposed Section 106 Agreement between UDC and Stansted Airport Ltd, having regard to the Heads of Terms contained in the resolution approved by the Council's Planning Committee on 14th November 2018; (ii) any new material considerations and/or changes in circumstances since 14 November 2018 to which weight may now be given in striking the planning balance or which would reasonably justify attaching a different weight to relevant factors previously considered; And thereafter ask the Planning Committee to determine the authorisation of the issue of a Planning Decision Notice.

Those Members who making declarations of interest on 17 January confirmed their declarations.

Additionally, Councillor Sell said he was a ward member for Stansted South. He entered the meeting with an open mind.

Councillors Gregory, Light, Dean, Caton, Day, Gerard and Foley made statements to the Committee.

The Solicitor read out a statement from Robert Jones of Hatfield Heath, which had been unavailable at the session on 17 January 2020.

PC107 PRESENTATION BY STOP STANSTED EXPANSION AND STATEMENT BY MANCHESTER AIRPORTS GROUP

Brian Ross and Paul Stinchcombe gave a Powerpoint presentation on behalf of Stop Stansted Expansion. A copy of this presentation is annexed hereto.

Ken O'Toole and John Twigg made a statement on behalf of Manchester Airports Group, the Applicant in this matter. A copy of this statement is annexed hereto.

Break for lunch 1305 to 1405

PC108 UTT/18/0460/FUL - STANSTED AIRPORT

The Director – Public Services distributed a new paper titled 'speaking notes'.

A point of order was raised by Cllr Fairhurst. He stated that it was not normal practice for the case officer to give a second report in response to matters arising out of public speaking to the Committee.

In response the Development Manager stated that it was standard practice for any necessary clarification to be provided to Members following the close of public participation and that normally this was supplied by himself. The Solicitor confirmed this and stated that the Director – Public Service would provide that clarification but that in this case a written note had been provided to assist Members in their deliberations.

The Director – Public Services gave a verbal report to the Committee. He said there needed to be a very good planning reason for the Committee to change its mind about publishing the decision notice granting planning permission. He noted the following points raised in public speaking and correspondence:

- World Health Organisation guidelines on community noise were referred to, however this is a matter which the government has reserved to itself and will address in its forthcoming updated Aviation Strategy. The level difference between the Do Minimum and the Development cases in both 2023 and 2028 was less than 1dB and therefore the difference had been assessed as negligible.
- Dispersion modelling of fine particles had been carried out and concluded that the airport expansion would have no significant effects on the concentration of such particles. The highest predicted annual mean

concentrations of PM2.5 were set out before the Committee in November 2018.

- There were no alternative fleet mix assumptions upon which to rebase the environmental statement, now that the Boeing 737MAX was grounded until at least summer 2020.
- In November 2018, the government believed there was a case for airports making best use of their existing runways and that this could be achieved within the statutory greenhouse gas emissions target. The emissions target had since shifted from 80% reduction to net zero output, but the Making Best Use of Existing Runways policy had not been withdrawn and remained current policy.
- Some representations had indicated that the Making Best Use of Existing Runways policy only supported planning applications to remove aircraft movements and passenger number caps, and not those where additional infrastructure other than an additional runway would be provided. However the policy did not include this caveat.
- The need for the current development had been raised via representations regarding a short term softening and dip in growth, as well as the existence of proposals for growth at Gatwick, Heathrow and London Luton. However the Making Best Use of Existing Runways Policy supported all applications to make best use of existing runways and did not require need to be demonstrated.
- It was not government policy that a balance of imports and exports should be achieved in each sector of the economy.
- The Council had not yet responded to Inspectors advising how it wished to proceed with its local plan, and therefore no more than limited weight could be attached to emerging policy SP11 in the terms in which it was submitted.

The Director – Public Services said the S106 agreement now proposed would adequately address the impacts of the proposed development, and the obligations were no less and no more than was necessary. The caveat attached to the resolution to refuse permission had therefore been discharged and a decision notice granting planning permission should now be issued.

Members Discussion

Members discussed whether there were discrete issues on which there had been a relevant material change in circumstance which should be considered sufficient to tip the tilted balance in deciding whether there had been any change therein.

Any changes to material considerations should be considered before identifying whether the Section 106 Agreement obligations adequately mitigated these. Six possible changes in circumstance by way of themes were suggested by Cllrs Fairhurst and Freeman were identified for further discussion:

- noise,
- number of flights,
- climate change,
- health and wellbeing,
- need and

- surface transport.

Noise:

In relation to noise the following matters were discussed with emphasis upon the publication of updated guidelines by the WHO pertaining to the health impact of noise upon populations. This was relevant to the question of there being more actual flights at Stansted :

- The Boeing 737MAX was now grounded until at least summer 2020. There was now no guarantee that noise restrictions could be met. The airport would be subject to a fine if it exceeded the noise limits presented in the application. The noise assessment contained in the ES was based on an outdated understanding regarding the impact of noise upon public health and upon assumptions as to the likely fleet mix of RyanAir at the date of the November meeting. These assumptions are as of January 2020 unlikely to come to fruition.
- The modelling that was done for the application in 2018 was based on noise levels of 55 decibels rather than 45 decibels.
- A revised impact assessment was unavailable and the Committee had no alternative fleet mix assumption. Any assumptions made about noise would be speculation.
- The health and wellbeing of residents of the district could be affected by the negative impacts of a possible breach of noise restrictions.
- The Committee considered increased awareness of the impact of noise nuisance upon health combined with fleet mix issues to be a change in circumstances which was a material consideration affecting the decision to approve the application.

Number of flights:

In relation to number of flights, the following matters were discussed:

- It was perceived by at least one member that the November 2018 Planning Committee which had considered the application were not clear whether there would be an increase in the number of actual as distinct from permitted flights at Stansted Airport.
- Publishing the decision notice granting permission for this application would not grant permission for an increase in the number of flights permitted. The number of permitted flights, referred to in the documentation as Air Transport Movements (ATMs) was capped at 278K per annum in 2008 and this will not change. However, the Applicant has not reached this figure in terms of actual ATMs per year and an increase in the number of passengers passing through Stansted would result in a larger number of actual flights but still within the permitted movements total.
- The cap on passenger number is not synchronized with the cap on number of flights. One has always increased more quickly, leading to the need to apply for an increase in the other.
- The discussion on the number of flights ended with the Chair stating that it was up to members to decide whether this was a material change.

Climate change:

In relation to climate change, the following matters were discussed:

- Since the Committee considered the application in November 2018, the government had adjusted its target of an 80% reduction in carbon emissions by 2050 to a net zero emission goal.
- In December 2019, the Mayor of London had declared a climate emergency. In May 2019, the UK became the first country to declare a climate emergency. As of October 2019, over 200 local authorities had declared a climate emergency, including Uttlesford District Council which declared a climate and ecological emergency on 30 July 2019. In November 2019, the European Union declared a climate emergency. As of January 2020, 25 countries had declared a climate emergency. This timeline was a material consideration as it demonstrated a change in circumstances since the application was considered in November 2018.
- It was noted that the government intended to put restrictions on the amount of carbon that could be generated through aviation, but at present, there were no specified limits.
- Putting the green-house gas emissions in context, it was noted that Uttlesford needs to reduce its carbon dioxide emissions by 0.5 million tonnes per annum (rounded) to achieve its zero carbon target by 2030. In the application it is stated that the increase in passengers will increase the carbon dioxide emissions by 1.0 million tonnes per annum (rounded). i.e. the passenger increase causes double Uttlesford's target decrease.
- Members discussed the realities of the MaxJet engine and when it was likely, if at all, to come forward. There were concerns that as Ryanair had yet to place an order with Boeing, the new, and therefore more environmentally friendly aircraft would not be operational for a number of years. Members felt this was significant given that Ryanair accounted for 60% of operations at Stansted Airport.
- The Committee had a responsibility to consider the effects on Uttlesford residents and other people. With aviation responsible for 2% of global carbon emissions and 6% of the UK's carbon emissions, it would be difficult to justify not taking climate change into consideration, as a material consideration amounting to a change in circumstances.

Health and Wellbeing:

In relation to health and wellbeing, the following matters were discussed:

- Particulate matter was generated both by planes and other traffic entering and leaving the airport.
- It was important for the Committee to take the risks of exposing residents to PM2.5 and ultrafine particles into consideration. Reference was made to a paper in the British Medical Journal in this regard but the paper itself was not before the Committee.
- There was more evidence of the negative impact of particulates upon health available to the Committee now than there was in November 2018, particularly upon people with respiratory conditions and diabetes. The health of residents was of paramount importance.

- With the Boeing 737MAX grounded for the time being, no alternative aircraft with more efficient engines would be commercially available enabling a reduction in the amount of harmful particulate matter being generated.
- Members discussed the emission levels of the new MaxJet engine, and, as that engine was no longer on the table, said that new projections on air quality should have been provided.
- Air quality monitoring in Stansted Mountfitchet had not been included in the 2018 report to the Committee, however it was in the updated Environmental Study brought before this Committee today.
- Health and wellbeing was therefore a material consideration amounting to a change in circumstances. There was considerable agreement among the members who spoke to this topic that this was considered to be of great importance.

Need:

In relation to need, the following matters were discussed:

- The Development Manager advised that the need for expansion was not a material consideration.
- The expansion would clearly be good for the business environment, employment, incoming tourism etc.
- It was said an application might be considered unsustainable if it compromised the ability of future generations to meet their own needs.
- There was a danger of the 'airport in the countryside' concept being lost with continued expansion.
- The application could be considered to have been brought prematurely since at present only 28 million passengers travelled through the airport annually; below the current passenger cap of 35 million.
- The Director – Public Services stated that the Making Best Use of Existing Runways policy supported applications to utilize the capacity of existing runways. The only requirement of the policy was in so doing local environmental effects should be sufficiently mitigated.
- Expansion applications are also being considered for multiple other airports.
- The need for expansion is probably not a material consideration, since it is substantially unaltered since the Nov 2019 Committee meeting.
- The discussion on need concluded that it was most likely not a material change.

Surface Transport:

In relation to surface transport, the following matters were discussed:

- K Wilkinson (Essex County Council Highways) said the Local Plan had not been taken into account in the Committee's deliberations when the application was considered in November 2018. There was no change on this point and a monitoring scheme for the roads surrounding the airport was included within the s106 package in order to assist in mitigating the increased use of the surrounding roads.
- The discussion on transport concluded with the general view (also from the Chair) that it was probably not a material change.

Decision Notice

Councillor Fairhurst proposed that the decision made by the Planning Committee on 14 November 2018 in respect of application UTT/19/0460/FUL be overturned due to changes of material circumstances since the consideration of the application. These changes were in respect of the following matters:

- Noise
- Climate change
- The impact of particulates generated by the airport on health and wellbeing

It was requested that the issue of the potential increase in the number of actual flights within the parameters of the permitted maximum number of flights also be mentioned in the decision notice. There was some discussion surrounding the developing appreciation of the potential difference between the two figures but it was reiterated that the permitted overall cap on numbers was fixed.

In response to a member question regarding the preservation of the mitigation package, the Development Manager said if this application went to appeal, officers would ask for a Unilateral Undertaking to be put into place, thereby allowing the proposed s106 obligations to be retained.

Councillor Freeman seconded the motion.

The Chair read the draft decision notice to those present.

A recorded vote on Councillor Fairhurst's motion was requested. The results were as follows:

For: Councillors Bagnall, Fairhurst, Freeman, LeCount, Lemon, Loughlin, Merifield, Pavitt, Sell and Storah.

Abstain: Councillors Reeve and Sutton.

RESOLVED: Having regard to the changes between 14 November 2018 and now in relation to:

- (a) noise from the development as fully implemented;
- (b) air quality, specifically PM 2.5 and ultrafine particles, resulting from the development as fully implemented; and
- (c) generally accepted perceptions and understandings of climate change,

the Committee resolves not to issue a planning decision notice for the development and, accordingly, the resolution of the planning committee of 14 November 2018 is no longer effective.

Planning Permission

Councillor Fairhurst proposed that permission for application UTT/18/0460/FUL – Stansted Airport be refused on the basis that it contravened policies ENV11

(Noise Generators), ENV13 (Exposure to Poor Air Quality) and the National Planning Policy Framework, as well as generally accepted perceptions and understandings of the importance of climate change and the timeframe within which it must be addressed.

Additionally, he proposed refusal on the basis that the application failed to provide the necessary infrastructure to support the application, contrary to policies GEN6 (Infrastructure Provision to Support Development), GEN1 (Access), GEN7 (Nature Conservation), ENV7 (The Protection of the Environment – Designated Site), ENV11 and ENV13

Councillor Pavitt seconded this motion.

A recorded vote on Councillor Fairhurst's motion was requested. The results were as follows:

For: Councillors Bagnall, Fairhurst, Freeman, LeCount, Lemon, Loughlin, Merifield, Pavitt, Sell and Storah.

Abstain: Councillors Reeve and Sutton.

RESOLVED that having regard to

- a) noise from the development as fully implemented;
- b) air quality, specifically PM 2.5 and ultrafine particles, resulting from the development as fully implemented
- c) generally accepted perceptions and understandings of climate change, planning permission for the development is refused.

The full decision notice is available on the Council's website [here](#).

The Chair thanked everyone who participated for their input in the process.

The meeting closed at 18.15pm.