

STATES OF JERSEY

PLANNING AND BUILDING (JERSEY) LAW 2002 (as amended)

APPEAL OF A DECISION UNDER ARTICLE 108

REPORT TO THE MINISTER FOR PLANNING AND ENVIRONMENT

by Mr Philip Staddon BSc, Dip, MBA, MRTPI

an Inspector appointed under Article 107

APPEAL BY: Mr R. McAllister (Third Party Appellant)

AGAINST: Decision of the Department of the Environment to Grant Planning Permission for a proposal to "*Construct 3 No. aircraft hangars with associated landscaping, including raised bunds*"

DECISION DATE: 16 March 2018

LOCATION: Jersey Airport, Le Mont Fondan, St. Peter, JE3 1BY

REFERENCE: P/2017/1184

APPEAL PROCEDURE: Hearing - 4 July 2018

SITE VISIT: 4 July 2018

DATE: 3 August 2018

Introduction

1. This report contains my assessment of the appeal made by Mr R. McAllister against the decision of the Department of the Environment to grant Planning permission for a development of three aircraft hangars at Jersey Airport. The Appellant lives near to the airport.

Jersey Airport - context

2. Most Islanders and visitors will be familiar with Jersey Airport, located in the west of the Island in the parish of St. Peter's. Its history dates back to 1937 and, over the years, its facilities and buildings have expanded and changed.
3. Today, it includes the main runway which follows a roughly east-west axis and is about 1700 metres long. To the south of the runway is a network of taxiways connecting to the arrival / departures building complex and to large hard surfaced areas, including 'stands' for aircraft and to a number of existing hangars.
4. The airport complex is effectively encircled by Green Zone and Coastal National Park designations. There are only a small number of immediate residential neighbours, but the established built-up areas of St Peter's Village, Les Landes and Les Quennevais lie to the north, east and south respectively.

The Application site and its closest neighbours

5. The application site is of an irregular shape and lies within the south-west corner of the airport. To the east of the site, and south of the terminal complex, is existing hard surfaced operational space, used for the manoeuvring and stationing of aircraft (on 'stands').
6. The northern and north-western site boundaries are also formed with developed areas, comprising an aircraft taxi route and an existing hangar building, which I understand is used for small private aircraft. To the west, the site abuts the perimeter service road. To the south, the irregular site boundary abuts the road, *Mont a la Brune*, and runs around the airport's water attenuation pond complex.
7. Beyond the site, and to the south of *Mont a la Brune*, is a holiday complex of self-catering holiday lodges, known as *Les Ormes Resort*.
8. The Appellant's home lies within a tongue of land, which is encircled on three sides by the airport uses, with the water attenuation complex to the west, the fuel farm to the east and the operational apron and stands to the north. In the area between the Appellant's garden and the airport, there is an intervening area of land which appears to be used for the storage of cars. Beyond this, there is a substantial earth bund which arcs around the north and west, such that the airport is extensively screened from view from the Appellant's garden.

Planning history

9. There is no directly relevant Planning history in respect of this specific site. However, in the course of the appeal there were references to wider developments on other parts of the airport, including the major scheme to create an integrated arrivals and departures terminal (planning permission was granted in March 2018) and to earlier developments of a cargo centre and fuel depot. Reference was also made to the new Les Quennevais secondary school proposal to the south of the airport (planning permission was granted in October 2017).

Planning application P/2017/1184

10. The application was lodged in August 2017 by the Ports of Jersey (PoJ). It sought planning permission for a scheme comprising three 'sprung' hangars.
11. The hangars would be sited side by side on a north-south axis with their opening doors facing east. The area in front of the doors would be hard surfaced to form an extended apron, connecting to the existing operational hard surface / taxiway.
12. Each hangar would be about 56 metres in length by 40 metres in width and have a maximum height of just under 17 metres. The main body of the hanger has a rectangular footprint, with the rear (west facing) part forming a semi-circle. The covering material would be 'misty grey' in colour.
13. The scheme involves ground excavations to ensure that the hangars will work with the existing taxiway levels. This will entail the excavation of an estimated 30,000 cubic metres of substrate. The proposal entails the use of this material to form earth bunds to the west of the proposed hangars and to extend the existing bund, which arcs around to the north and west of the Appellant's property.
14. The application was first considered at the February 2018 Planning Committee. The officer report recommends that planning permission be granted and it recorded that the Environmental Health officer had no objection. The committee, mindful of the disputed noise impacts and local representations, deferred consideration to explore whether some agreement could be reached.
15. At the March Planning Committee, three actions were confirmed. First, an acoustic fence of circa 183 metres in length was introduced, running roughly east-west and along the southern edge of the extended apron and inside the existing bund (beyond the Appellant's property). Second, new noise maps were produced which indicated a net reduction in noise to properties to the south and south-east. Third, PoJ produced a set of operating procedures and protocols for the hangar usage.
16. Planning permission was granted on 16 March 2018 and this third party appeal is made against that decision.

The Appellant's Grounds of Appeal

17. The Appellant's grounds of appeal, summarised in his appeal form, state that the development will unreasonably harm his quality of life due to:
 - Noise
 - Visual impact
18. The Appellant's case was supported by submissions from his appointed Noise and Planning consultants. His Planning consultant attended the Hearing in person and his Noise consultant participated via a speaker phone link.
19. With regard to noise, the Appellant's expert advised that he considered that the Applicant's noise impact assessments were inadequate. In particular, he submitted five main criticisms.
20. First, that the Applicant's background noise survey data was inadequate, being carried out for just 2½ hours, when several days, including a weekend, should be used to provide a reliable noise picture. Second, that the Applicant's use of static aircraft noise readings do not take account of noise directivity from moving aircraft. Third, that the route of the taxiing aircraft on the proposed hangar apron was closer to residential property than assumed. Fourth, aircraft engine heights were often over 2 metres above ground, which, combined with the higher ground level of the extended apron, means that the claimed noise mitigation from the acoustic fence was 'impossible to reconcile'. Fifth, that no information had been provided on noise from auxiliary power units, ground running of engines and maintenance operations.
21. In addition to noise impacts, the Appellant expressed some concern at the proposed 'inexpensive hanger development', describing the units as 'low cost beasts' with consequential visual and landscape impact.
22. The Appellant and his Planning Consultant submitted that their concern is to protect the amenities of the Appellant's family. They contend that there are too many unanswered questions on noise to enable a safe decision to be made, that there is no masterplan guiding developments at the airport, and that the Island Plan policies tests are not met. Overall, they conclude that the appeal should be allowed and Planning permission should be refused.

The Department's Response

23. The Department's case is set out in its original officer report to the February 2018 Planning Committee, its update report to the March 2018, and its response to this appeal through its Statement of Case.
24. In essence, it confirms its view that the hangars are acceptable in policy terms within this existing airport environment and that noise impacts are not unreasonable. It further states that officers regarded the scheme as acceptable without the additional measure of the acoustic fence. It regards the decision to grant Planning permission as soundly based.

The Applicant's case

25. PoJ explains the importance of this project to the diversification of the airport business to meet the identified demands of aircraft owners. It provides detailed rebuttals to the grounds of appeal and concludes that the Applicant considers that the Committee's decision to grant planning permission for operational development at Jersey Airport, within the boundaries of the Airport Operational Area, was entirely reasonable.
26. It states that this is reinforced by the fact that the proposed aprons are 'permitted development' and, therefore, that aircraft can taxi and park on this part of the site without the need for planning permission.
27. It further contends that PoJ has demonstrated that the submitted proposal was acceptable from a noise point of view and was endorsed by the Environmental Health Department. Notwithstanding this, additional noise attenuation measures were now proposed by the erection of an acoustic fence that will reduce noise impacts.

The Main Issues and Assessment

28. I consider that there are four main issues to consider in this case. These are:
 - i) the principle of the development
 - ii) noise impacts
 - iii) visual and landscape impacts
 - iv) Listed building impacts

Main issue i) the principle of the development

29. Jersey Airport is the subject of specific commentary and policies in the Island Plan. The Built Environment chapter of the plan explains that the airport is the island's principal gateway, with approximately 1.5 million passengers passing through each year. It explains that a commercial masterplan is being drawn up¹.
30. Proposal 15 of the Plan identifies a 'Jersey Airport Regeneration Zone' and sets out that any land use masterplan or development brief will be adopted as supplementary planning guidance. Map 4.2 defines the regeneration zone and the application site lies within its south-western part.
31. The Plan's zoning map defines a wider 'Jersey Airport Operational Area' which encompasses all of the airport's runways, hard surfaces, buildings and incidental areas. Within this defined area, Policy TT 15 applies, which adopts a positive presumption for operational development proposals.
32. The supporting text to TT 15 explains that it is a stated objective of the States that the airport operates in a more commercial manner and it needs to optimise its available assets.

¹ Island Plan 2011 (Revised 2014) – paragraphs 4.77 and 8.167

33. As the application proposal relates to operational development within the defined Operational Area, the positive presumption of Policy TT 15 applies. The proposal is therefore acceptable in principle.
34. However, it is worth noting here that the referred to masterplans and supplementary planning guidance are yet to emerge. The Appellant did express concerns about the absence of such clear plans and the potential for *ad hoc* developments.
35. I understand these concerns but Policy TT 15's positive presumption is not directly reliant on such masterplans and guidance, and it is clear from the narrative that it is a work in progress which is expected to emerge in time (no dates are given). However, with various airport developments already undertaken and others in the pipeline, the PoJ may wish to review progress on these matters and liaise with the Department on related future Planning implications. This would provide greater certainty to all, including neighbouring residents.
36. Whilst I conclude above that the presumption in favour of the principle development is firmly established, this does not obviate the need for the proposal to satisfy other relevant provisions of the Plan. These are explored below.

Main issue ii) noise impacts

37. The Island Plan includes three Aircraft Noise Zones, which are defined on the zoning map and are subject to development restriction through the effect of Policy TT 16. The zones are based on assessed air noise exposure levels associated with aircraft take-off and landing movements. The zones represent the areas assessed to be exposed to levels of noise above which it is considered to be the trigger for 'annoyance', although the TT 16 narrative explains that complaints can occur below these levels.
38. The outer (least noisy) of these zones (Zone 3) cuts through the application site, such that the northern part of the site is within it and the southern part of it is outside. Policy TT 16 effectively precludes 'noise sensitive' development within Zones 1 and 2 but makes noise a matter to be 'taken into account' for noise sensitive development in zone 3. This is of limited relevance to the current application proposal, as the hangars are not 'noise sensitive development', but it is important to understand that the Plan does recognise and respond to airport noise issues, through its zoning and associated policies. The Appellant's home, and others nearby, lie outside the Zone 3 boundary.
39. However, the key policy test is set out in the Island Plan's general development control Policy GD 1. Under GD 1 (3) a proposal must not 'unreasonably harm' the amenities of neighbouring uses, including the living conditions for nearby residents. The policy goes on to explain that these considerations will include noise, as well as other matters. Such assessments are inescapably context specific and require considered judgement.

40. This appeal and the associated Hearing were dominated by potential noise impacts and disputes over the reliability and robustness of the assessments undertaken by the PoJ in support of its application. In essence, the PoJ claim that they have undertaken appropriate and proportionate noise testing and modelling and that this demonstrates that there will be no undue noise impacts. The Appellant disagrees and claims the modelling is not sufficiently comprehensive and robust to support the PoJ's claims.
41. Disputed noise impact evidence presents challenges for those involved in Planning decision making. Planning officers, inspectors, and indeed the Minister himself, cannot be expected to become noise experts to determine this application. They have to be guided by expert advice and make informed judgments based on that advice. That judgment can become inordinately difficult in a case such as this, where both the Appellant and Applicant employ credible and experienced specialist consultants that disagree with each other.
42. To explore these issues, the starting point has to be an assessment of existing noise conditions and, following that, an assessment of how the proposal is likely to change those conditions, should the development occur. It is that assessed difference that is pivotal and it is context specific. If that difference is such that it is judged to be adverse to the extent of being 'unreasonable', Policy GD 1 would signal that the scheme was unacceptable and should be refused.
43. The noise experts for the Applicant and Appellant could not agree on the approach to background noise assessments. However, it is clear to me that the existing noise environment is composed of multiple sources and that it is dynamic. By far the most significant source is noise from landing and take-off movements of aircraft. However, there is also noise from aircraft taxiing and moving to and from the terminal and stands, as well as noise from auxiliary power units² (APU), some of which are extremely noisy indeed. Added to that, are road traffic and other noises in the vicinity. It is a complex and constantly changing mosaic of noise sources.
44. More specifically, the Appellant's home, as well as others in the vicinity, is situated immediately adjacent to a busy airport which has been operational for over 80 years. The Appellant's home and garden is also in close proximity to existing operational space immediately to the north, where aircraft (of all sizes and noise profiles), can manoeuvre and can be stationed (in the 'stands'), with the only noise protection being afforded by the existing bund. The distance from the garden to the edge of the stands appears to be just over 50 metres.
45. More generally, I explored the broader issue of 'annoyance' associated with the existing airport operations. I asked the States' Environmental Health Officer about the history of noise complaints associated with the airport. His response was that he could not remember any. The PoJ confirmed a similar picture, stating that the only complaints they could recall related to

² APUs are mobile external units which supply power to an aircraft when it is stationary. Older diesel powered APUs can be very noisy, whereas modern electrical APUs are quiet.

instances, some time ago, when they used a noisy runway sweeper. This suggests to me that, within the vicinity of the airport, residents accept the prevailing noise climate. This is important, as it helps to establish the baseline from which any changes in noise (arising from the proposal) need to be assessed, in terms of whether they would be 'unreasonable' (or not) under Policy GD 1.

46. I turn now to exploring potential additional noise impacts that may arise from the development of the three proposed hangars. It is important to begin by recognising that the proposed hangars themselves will not be inherently noisy. They are simply the aircraft equivalent of garages (for cars) providing covered secure storage. Notable noise generation will only really occur with the 'in and out' movements, when the craft are either being taken out for a flight, or returning from a flight. These events are likely to be brief in duration. The only other activities might include light maintenance, such as tyre inflation and topping up oxygen supplies. The Applicant has confirmed that it is proposed to use electric APUs for most craft. These were demonstrated in operation at the site inspection and were quiet in operation.
47. Whilst my site inspection tour was limited in duration, it appeared to confirm this picture. I saw no activity at the existing aircraft hangar (to the east of the application site) and very little at the main larger hangar complex (to the south of the terminal complex). This is unsurprising, given the fundamental storage purpose of a hangar means that there is very little activity (or consequential noise) for long periods of time.
48. As this is a speculative proposal, it is not possible to establish the number of aircraft, their sizes, noise characteristics or the frequency with which they would move in and out of the hangars. At one end of the spectrum there could be just 3 large cabin aircraft (1 in each hangar). At the other end of the spectrum, up to 18 smaller planes (6 in each hangar) could be accommodated. Added to that, large aircraft are not necessarily noisier than small aircraft.
49. As a consequence, there is an almost endless set of permutations which means that any noise modelling can, at best, only represent a snapshot. The modelling undertaken by the PoJ uses data gathered from two different aircraft types – a small private jet and a larger turbo-prop regional airliner, and assumed a number of in and out movements per day. The modelling suggests that there could be a net reduction in noise for properties to the south and south-east.
50. Whilst recognising that the modelling is a snapshot, it is not an unreasonable approach and appears to be proportionate in the circumstances, given that it relates to a proposal for operational airport development well within the defined Operational Area.
51. I am mindful of the Appellant's noise expert's well-argued criticisms of modelling. There is no doubt that more and different modelling could have been carried out, but I must also give some weight to the professional opinion of the States' Environmental Health Officer. He was clearly satisfied

with the modelling undertaken, did not find fault with it, and raised no objection (both before and after the scheme was amended to include the acoustic fence).

52. I reach a number of conclusions about noise impacts.
53. First, with regard to existing noise, there is an existing compromised noise environment for properties, such as the Appellant's home, that are situated in proximity to the airport. Quantifying the multiple and changing sources of existing / background noise is not straightforward. However, the existing complex noise climate does not appear to generate frequent noise complaints, suggesting that it is an accepted part of life for those living in this part of the Island.
54. Second, in terms of likely noise impacts arising from the development, I assess that the hangars will be inherently quiet for most of the time. Notable noise effects will arise from the movement of aircraft in and out of the structures. The modelling of such activity, whilst limited by the assumptions made, indicates a net reduction in noise to nearby properties, including the Appellant's home. Whilst there remains some dispute about the robustness of the modelling, the spatial separation between the hangars and the Appellant's home is substantial, being about 130 metres to the nearest hangar (compared to just over 50 metres to the existing aircraft stands). Furthermore, the acoustic fence and extended bund are likely to have some beneficial mitigating effects.
55. Third, bringing all of the above together, the evidence before me does not suggest that there would be any basis for reaching a conclusion that noise effects would be unreasonable. I therefore conclude that the proposal satisfies Policy GD 1(3) in respect of noise impacts.

Main issue iii) visual and landscape impacts

56. Whilst noise impacts have dominated this appeal, the Appellant also objects to the proposal on visual impact grounds. There is no escaping the fact that the hangars are large and quite plain structures.
57. The application was supported by a Landscape and Visual Assessment, which explores the potential impact of proposed development from a range of local and more distant viewpoint receptors. I consider that this demonstrates that the proposal would be acceptable in landscape and visual terms. The hangars will appear as a familiar form of airfield structure set within the context of the operational area of the airport. They will not look out of place, have any undue landscape or harm any important views and vistas. The screening afforded by the bunds and landscaping will further soften their impact.
58. I consider that the proposal is acceptable in terms of landscape and visual impacts and complies with the Island Plan policies, most notably those set out in Policy GD 5 (Skyline, views and vistas) and GD 7 (Design quality).

Main issue iv) Listed building impacts

59. Although this matter did not feature in the Appellant's written submissions, his Planning agent drew attention to the fact that his home is a Listed building. The Listing records that "*this mid-late C19 rural house retains its historic proportions and character and contributes to the rural roadside setting.*" It has a non-statutory Grade 4 listing.
60. Whilst this triggers consideration of heritage impacts under Policy HE 1, I am satisfied that the proposals do not have any adverse impacts on this heritage asset. The proposal would be a significant distance away and would not fall within the Listed building's setting. I consider the setting of the Listed building would be preserved.

Other matters

61. The Appellant made some references to other environmental impacts, such as fumes and light pollution. However, given the status of the application site as part of the airport's operational area, the separation distances involved, and the absence of any evidence of harm, I do not consider that there are any substantive Planning objections on these matters.

Conclusions and recommendation

62. The application seeks Planning permission for a development of three aircraft hangars at Jersey airport. The site falls well within the defined Operational Area. Policy TT 15 of the Island Plan makes a presumption in favour of airport related operational development in this area and the development is therefore acceptable in principle.
63. Whilst concerns have been raised about noise impact, my assessment is that the evidence before me does not support a conclusion that the use of the hangars would materially worsen noise conditions for neighbours, including the Appellant's home. I assess that there would not be unreasonable noise impacts and that Policy GD 1 is satisfied in this respect.
64. I consider that the proposal is acceptable in terms of visual and landscape impact, that there are no tangible heritage impact concerns, nor other environmental effects that would render the scheme unacceptable in Planning terms.
65. Accordingly, I recommend that the Minister DISMISSES this appeal and confirms the decision to grant Planning permission for the proposal, subject to the conditions previously set out in the decision notice dated 16th March 2018.

P. Staddon

Mr Philip Staddon BSc, Dip, MBA, MRTPI