

MINUTES

STRATEGIC PLANNING & ENVIRONMENT OVERVIEW & SCRUTINY

31 JANUARY 2017

Councillors: Anderson (Chairman) Riddick
E Collins R Sutton
Fisher C Wyatt-Lowe (Vice-
Hicks Chairman)
Howard

Officers: James Doe Assistant Director - Planning, Development
and Regeneration
Katie Mogan Member Support Officer

Also in attendance:

Councillor Herbert Chapman
Councillor Terry Douris
Councillor Janice Marshall
Councillor Graham Sutton
Councillor Jane Timmis

The meeting began at 7.30 pm

10 MINUTES

The minutes of the Strategic Planning and Environment Overview and Scrutiny Committee meeting held on 10 January 2017 were confirmed by the members present and signed by the Chairman

11 APOLOGIES FOR ABSENCE

Apologies were received from Councillors Adshead, Ashbourn, S Hearn, Matthews
and C Wyatt-Lowe.

Councillor R Sutton substituted on behalf of Councillor Adshead.

12 DECLARATIONS OF INTEREST

There were no declarations of interest

13 PUBLIC PARTICIPATION

There were four speakers for item 6 – Markyate GP Surgery Development (see minute number 016).

14 **CONSIDERATION OF ANY MATTER REFERRED TO THE COMMITTEE IN RELATION TO CALL-IN**

None.

Councillor Anderson asked the committee if the order of the agenda could be changed and the committee hear the Luton Airport report first. The committee agreed.

15 **LUTON AIRPORT**

Councillor Anderson asked Councillor Timmis to make her presentation. He said she was here tonight as a member of the London Luton Airport Consultative Committee who has played a part in lobbying the airport on behalf of Dacorum.

Councillor Timmis statement:

Luton Airport is in Bedfordshire and owned by Luton Borough Council, who get a cool annual rent of £29 million. Over the last five years it has been getting rapidly busier and continues to do so. There are now approximately 75,000 aircraft flying out of Luton Airport a year; 70% of these planes depart on the Westerly flight path between Flamstead and Markyate. The noise pollution, especially during the summer months, affects a large number of those living in both villages both day and night and will only get worse as passenger numbers increase from the present 13.5 million to an estimated 18 million by 2020.

The airport has used new technology to ensure planes keep to a more precise flight path, but rather than mitigating the noise it has tended to concentrate it. The sheer increase in the number of flights and the low climb of the aircraft counter any benefits. At present there is a very complicated system of flight control in our skies as Heathrow, Stansted, Northolt and City airports share the skies around Luton. It is very busy up there. To keep safe, Air Traffic Control keeps planes separated by height, and so Luton planes have to take off at a lower angle to remain at a lower level until they are out of the area. They are trying to achieve better coordination in the near future so that Luton planes can take off at a steeper angle, resulting in them being higher over the villages and therefore less intrusive; provided of course this does not increase our noise burden due to increase throttle settings. There is a longer term aspiration for slightly quieter aircraft, and in another 15-20 years the possibility of a complete review of the London airspace.

Presently, the financial benefits of the airport accrue to Bedfordshire and Luton Borough Council, whilst the noise and air pollution impacts falls largely on Hertfordshire.

My hope in bringing your attention to the noise and air pollution suffered by those living in Markyate and Flamstead is to persuade you that we must do all we can at

present to apply pressure for change, and in the long term we must consider pressing for a complete re-think of the westerly departure routes to avoid Dacorum altogether so that our communities are not blighted for years to come.

Councillor Anderson then invited Andrew Lambourne from LADACAN to give his presentation.

A Lambourne introduced his presentation by saying that LADACAN (Luton and District Association for the Control of Aircraft Noise) was a residents association involving residents all around the airport. He said his presentation was to give members some background information and to help apply pressure on the airport on behalf of the residents.

Key points of the presentation:

- Luton Borough Council (LBC) owns the Luton Airport infrastructure and is also the local planning authority. The decision to expand was granted in 2013. It was designed to increase the capacity of the airport and included new taxiways. This increased the rate of which planes can use the runway and increased the number of flights per hour without extending or adding a runway.
- The projected targets were a doubling of annual passengers (from 9 million to 18 million) and a 60% increase in flights (100k to 160k) by 2028. To increase the number of passengers without adding a runway would mean that airlines would need to deploy larger aircraft and Airbus A320XLRs are becoming more common. These are larger, heavier and noisier. A Lambourne said he attended the planning meeting and the members acknowledged that there would be a significant environmental impact but it was a political decision as it is government policy to extend airport capacity. There were a number of planning conditions which were reasonably sensible at addressing resident concerns.
- Three routes go across the north of the borough which equates to about 70% of all flights as aircraft must take off into the wind and the wind is predominately westerly.
- The airport gets busier each year and the double capacity target is due to be reached by 2020. This is a worry because the idea was for airlines to invest in quieter aircraft between 2013 and 2028. We are expecting quieter aircraft at the end of the year but it is clear that capacity is overtaking investment. If the airport hits 18 million passengers by 2020, are they going to want to apply for further capacity?
- EasyJet doesn't quite match the expansion of Wizz who mainly serve Eastern Europe and so the aircraft turn east out of Luton.
- It is clear that the airport has started filling in the quieter hours with flights. Between 9am – 10am now has significantly more flights. Local councillors have experienced increased complaints from constituents as there are more

- flights outside of working hours especially towards the end of the day as airlines attempt to turn aircraft around three times a day.
- 2016 was Luton airport's busiest ever year with an average of 409 flights a day compared to 369 in 2015. Passenger numbers have increased 15% year on year in Q3 2016. Average passengers numbers is 48,909 per day compared to 42,408 in 2015. This increase will affect Dacorum as these passengers need to travel to the airport so will be using the motorways and trains adding to congestion and pollution problems. The increase in noise complaints has more than doubled and new complaints have increased by a factor of four.
 - The airport will not turn away business and the routes cannot be changed as they interlock with Heathrow and Stansted. The rate of climb could be higher but the concentration of flights creates a wall of noise between Harpenden, St Albans and Hemel Hempstead.
 - One suggestion for the committee is to consider engaging with the airport operators over plans to climb faster as this will increase the throttle and therefore increase the noise. It has been suggested at various committees to have a careful and professional noise monitoring report before and after the changes to see if there is any real impact.
 - LADACAN are looking at possibility of financial compensation as Luton airport create a 'road in the sky' when the tracks are tightened.
 - Airlines are fined if flights exceed defined noise limits. The noise is measured at fixed monitors at the Dacorum border. Currently, only around 10 flights (0.05%) are fined each quarter and this is hardly an incentive for airlines to invest in quieter aircraft.

Questions and answers

Councillor Hicks said he represented Tring and the area of Hastoe which is the highest point in Hertfordshire and under the flight path. If the day becomes fuller with flights, will there an increase in night flights?

A Lambourne said Eastern European flights from Moldova and Romania tend to be the night flights and the flight path over Hastoe serves Northern England and Ireland which has less demand.

Councillor Hicks asked how Luton airport compared to Heathrow with night flights.

A Lambourne said that Luton airport was not a designated airport so is not covered by government regulations on night flights. This means they have a 24 hour operating licence.

Councillor G Sutton asked how quiet the new aircraft would be in decibels.

A Lambourne said that in his opinion, it wouldn't significantly reduce the noise. However, if you reduce the noise by 3 decibels then that can half the noise experienced by residents. People cannot tell the difference between 73 and 70

decibels and the violation levels are set at 80 decibels at night and 82 during the day. When the new quieter aircraft arrive, we can monitor noise levels in 2018.

Councillor Anderson said there was a difficult balance between economic development and environmental quality of life. He asked what other councils are doing about the noise issues.

A Lambourne said Anne Main, the MP for St Albans, has written letters about the effect of the tracks and a review is due in August. The councils affected have an opportunity to make formal representations to the aircraft operator.

Outcome

Councillor Anderson suggested a couple of proposals for the committee to consider:

- 1) Ask the Portfolio Holder to write to Luton Airport to express concerns over the increased noise pollution in Dacorum and ask if they would be willing to invite a group of councillors to discuss their concerns.
- 2) The Council contact Mike Penning MP and David Gauke MP to join Peter Lilley's (MP for Hitchin and Harpenden) campaign to resolve the anomaly in the regulation of night flights at Luton Airport

These proposals were seconded by Councillor Hicks and agreed by the committee.

Councillor Anderson thanked A Lambourne and Councillor Timmis for attending and giving their presentations.

16 MARKYATE SURGERY

Councillor Anderson advised members that as the site included Council owned land, the committee must be careful not to stray into commercially sensitive information.

Councillor Timmis made a statement:

This is a story about a broken promise and no accountability.

The broken promise is one made to Markyate residents when as part of the planning agreement for 80 new houses in the village in 2012, a new space would be provided for a Doctor's surgery. The accountability or lack of it, arises from the failure of the development company to deliver a space fit to be a doctor's surgery and it would appear the failure of the planning department of Dacorum Borough Council (DBC) to inspect and oversee the construction of the surgery.

The square footage was delivered but not the surgery bit, e.g. no disabled access, no disabled parking, a dark alley way access to the rear door and stairs to the first floor, no lift space, low ceiling height on the upper floor and a massive frontage of glass like a car showroom.

The additional aspect to this collection of failures is that the development company went bust (twice) during and after the build and the planning officer concerned as long left DBC.

The questions that we have come here tonight to explore are why, when the promised surgery space was not suitable, was it allowed to be signed off without proper planning oversight, why has it not been under investigation for so long, nearly two years with little progress, and can we hold you account for a solution and a timeline for its delivery?

Councillor Anderson invited the members of the public to speak:

Dr Sepai

The report states that the surgery made no comments and I can confirm it was quite the contrary. The visions presented by the developer worked on the basis of making Markyate beautiful and they asked the surgery what they could do to help. They held meetings with the surgery and the patients practitioner group. The agreement was that none of the houses were to be occupied until the surgery was built and functioning. The surgery that was built is inadequate and the current surgery is being burdened by the new residents. In March 2014, I questioned the plans and the building was not built to specifications and the NHS were not consulted. NHS England have the funds available to build the surgery but this money is only available for two years. The planning department have failed and neglected the village. There are no bus services to the local hospitals making the surgery even more important. I look forward to greater cooperation.

Catherine Comfort

I would like to bring to your attention the feelings from residents. We have set up a Facebook page about the surgery and I would like to present to you some of the comments. The current surgery is not fit for purpose and having it over two floors is unsuitable for elderly and disabled residents. People are happy with the service provided but feel better premises are required. Residents are concerned about losing what the village currently has when the lease runs out. There is frustration in the village that the developer implemented so little of the original plans and it feels like Markyate is the poor relation of DBC. The parties involved have not worked together and have let down residents. Dacorum must take some responsibility and enforce the delivery of the planning permission. We need a timeline of future progress and we need someone to take accountability.

Nick Robeson

I moved to Markyate in 2015 with a young family. My wife did not drive so the nearby surgery was a unique selling point. There is great concern that Dr Sepai's lease will expire in 2019 with nothing to replace it. There has been no communication from Dacorum with the village – this meeting was not posted on the Parish Council website. The site looks unfinished and graffiti is appearing with extremely rude

words. 150 houses have been built and there is no infrastructure to support this. There are a couple of questions that need answering:

- 1) Western Homes have triggered the two year clause so can Dacorum's enforcement team make the developer provide a surgery fit for purpose?
- 2) Can Dacorum submit its own planning application on its land?
- 3) Who is responsible? Is it DBC, NHS England, the developers?

Mark Tibbet

I am a Professor at Reading University and have lived in Markyate for five years. The surgery is a critical hub for the village and those surrounding. It has little resemblance to original plans and there was no communication about the changes. The inadequate surgery undermines the future of the village as it is a vital component in village life. This has caused little faith in the village in the council and its councillors. There is a will to get things moving and I believe there is a moral obligation to sort these problems out and that promises are fulfilled.

J Doe ran through the main points of the report and hoped to answer some of the questions from the public.

The report focusses on the planning process and the delivery of the surgery, there are no immediate solutions but some options are set out in the report (paragraphs 3-10) and proposed meetings with stakeholders. Some of the site is DBC owned land which the developer has not built out. They can do that and the requirements are set out in the planning conditions. For example, the playarea has not been built as some of the land is under DBC control. Section 5.1.1 of the s.106 agreement provided details of the surgery in phase three of the development including dwellings should not be occupied before practical completion of the surgery. Officers have changed hands and the developer commenced work without compliance of the s.106 agreement. This is not uncommon but Council has to take a proportional response. The enforcement dilemma comes as action has to be taken against the owner of the land which is now the homeowners and it would be unfair to take action out on them. The phasing of development was secured by condition 2 and the public areas are on DBC land and the developer will argue that they cannot deliver because they do not control the land. Enforcement action is a long process but accept this could have been stronger. The Council are looking for a way forward and numerous meetings will be arranged to discuss options. It is easy to look back on what went wrong. Consultations were taken place with local residents and the local GP surgery was consulted – the absence of feedback relates to the planning application. Looking forward, officers are chasing the developers and it is highly unlikely that they will submit surgery details. There will be a meeting with the CCG and NHS England to understand what it would take to convert the current space. A specialist survey will be commissioned with specialists in the health sector. So who is responsible? It is not simply down to the planning service. The delivery of

the whole project falls to property and legal services, the CCG, the GP service and NHS England.

The report highlights the options available. One option might be to look an alternative site in the village unless the surgery can be converted to a high standard at a reasonable cost. We are in the second year of the two period to acquire the land. Any option must work financially for the Council and the CCG. All parties are supportive of the new building and officers from the Council will meet with the CCG and the GP to find a workable solution through the proposed meetings arranged.

Questions and answers

Councillor Anderson asked if Council carry out a risk assessment for deliverability for major schemes.

J Doe said the phasing plans and s.106 trigger clauses. The public elements are developed in advance of the residential elements. Planning permission cannot be refused on the fitness of a developer.

Councillor Hicks asked if the land could be 'locked' and prevent the developer from selling units until all conditions have been met.

J Doe said this isn't a route that would be explored first. A temporary stop notice would be more appropriate. Legal injunctions would be imposed in only the most extreme cases and all planning routes must be exhausted first.

Councillor Riddick said this was a huge mess. Did more than one developer go into administration?

J Doe said yes, the first developer called Zog reappeared under a different name and transferred the land to a house building developer.

Councillor Riddick said a risk assessment should take place and the developers must have professional teams involved. Surely a warranty could be secured for future recourse.

J Doe said it can be secured through planning consent but it wasn't done in this case.

Councillor Howard asked why no one was overseeing the developers to ensure everything was on track and being built according to the specification. Surely this should have been spotted.

J Doe said that doesn't happen in the planning department. The council is not resourced to inspect developments as they progress but officers do constantly liaise with developers. The Council has a reactive enforcement service and action is normally taken when a complaint comes in from residents.

Councillor Anderson said that s.106 legislation was changing and would it cause a problem for the Council to introduce its own risk management scheme so lessons can be learnt and make it less likely to happen in the future.

J Doe said there would be plenty more s.106 agreements coming forward and phasing of developments need to be controlled and the risks are taken on board. Conditions are based on risk especially when developers finish the profitable sections of a development first. An internal officers group meet once a month to review cases and if necessary they are referred to the corporate working group on which the Portfolio Holder sits so there is an escalation procedure in place.

Councillor Hicks said that he understood staff were busy so it is possible in to future to have some way of making developers submit a bond as a guarantee.

J Doe said bonds were used on occasions but it was not appropriate in this case. It was always the case that the developer would build the shell and core of the doctors surgery and the health sector would fit it out internally.

Councillor Timmis said looking forward, what kind of timescale are we looking at to ensure progress is made?

J Doe said he had a meeting with the CCG that day and had another meeting planned in the next 2-3 weeks. With regards to a longer timeline, no guarantees can be made as it depends on what option is taken.

Councillor Timmis asked if she could be kept updated along with the residents.

J Doe said yes, certainly.

Councillor G Sutton thanked the people of Markyate for presenting their case in such a polite and measured way. He said he sat on the Development Control Committee when this planning permission was passed in 2011. The planning application looked good and it is disappointing to hear that some elements are not going to plan. Councillor G Sutton said that he had every faith in J Doe and promised to work together to resolve the issue. It is also important to ensure that the surgery provision is continuous.

Outcome

Councillor Anderson put forward a resolution to the committee:

The committee expresses disappointment in the failure to provide an adequate surgery. A referral to Cabinet should be made about mitigating risk in future large developments. Every effort should be made to resolve the current issues and ask that an update report is brought to committee in July.

Councillor Howard seconded the resolution and the committee agreed.

The Meeting ended at 8.50 pm