When the controversial new Planning reform came into existence in August 2020, there came with it a **short** set of criteria in order for the new system to be determined by **clear rules.** Part of the understanding being that there would then be no room for bureaucracy, debate or being able to 'move goalposts' to suit a desired result.

We will let the Local Planning Authority and previous submissions and comments concentrate on the other valid reasons for refusal and concentrate here on the aerodrome appeal section.

There are also a few additional points of note to the Planning Inspectorate at the bottom of these comments.

On the *original form* 'Application to determine if prior approval is required', one of the criteria to be met is:

"A.1. Development is not permitted by Class A if—
(o) (vii) land within 3 kilometres of the perimeter of an aerodrome."

The Agent knowingly and intentionally ticked the 'does not apply' box, having decided, without apparent due diligence and questionable integrity, to continue the application in the absence of acknowledgement or mention to the airport proximity issue. **The Agent ticked 'NO' instead of 'YES'.** There was no mention made in his supporting document either. It seems that this was a conscious action as, when the Local Planning Officer approached the Agent to highlight the matter, it was made clear that the Agent wished to challenge the aerodrome definition at appeal as he did not agree that Brighton City Airport (BCA) met his definition of an aerodrome.
The form then states: "If you have answered Yes above, the proposal **will exceed the limits set by legislation**. In this circumstance, you should not continue with this application and seek advice from the Local Planning Authority on the best course of action"

The agent's action would appear intentionally misleading, and not in line with the RTPA code of conduct (see below). It would also suggest that the Agent wanted to rush this application through seemingly 'at all costs'.

(n.b. The agent is a member of The Royal Town Planners Association which has a strict set of principles for members to follow - The Code of Professional Conduct as a member of RTPA is based around five core principles: competence, honesty and integrity; independent professional judgement; due care and diligence; equality and respect; and professional behaviour - setting out required standards of practice and ethics. Members are to meet and maintain high standards of competency and **conduct themselves in a way that inspires trust and confidence and maintains public trust in the profession)**

Government guidance has stated that **'Clear rules'** are to dictate the small handful of criteria needing to be met on this new type of application. This includes the aerodrome criteria A1(o)(vii). If this criterion was intended to be classified as solely 'safeguarding aerodromes' (as is the view of the appellant), then that is what it would state on the form. However, it **does not** limit and narrow down the definition. The *assertion* (not *assumption* as the appellant would suggest), would be that if that's what was meant, then that is what would have been identified on the form – there is no ambiguity. It states 'aerodrome' – and we have the definition in the various documentation available to the Inspectorate, and Brighton City Airport meets that definition (see below).
Simply put, if the applicant could not meet **ALL** of the five or six criteria required, then this is not the correct application/Permitted Development route and their application is beyond the scope of or '**exceeds the limits set by legislation**'.

Penhill Court (proposed site) is approximately 1.5km from Brighton City Airport. The airport is **defined as an aerodrome by definition of their license from Civil Aviation Authority and by the legal ruling provided by a Senior Lawyer (for convenience, the Legal response can be seen copy/pasted below and also in LPA documents dated 29/9/20)** who has determined that Brighton City Airport is defined as an aerodrome for the purposes of GDPO. This legal response document is not disclosed by the appellant, nor is it used by them as an attachment – **Such a lack of full disclosure to the Planning Inspectorate would seem to be a crucial omission and could be seen as misleading.**

""From: Sally Drury-Smith Date: Mon, 28 Sep 2020 at 20:17

Subject: GDPO and aerodromes

To: Peter Barnett

Dear Peter,

I have been passed your instructions regarding Part 20 of the GDPO as regards "aerodromes".

As you know, the Town and Country Planning (Permitted Development and Miscellaneous Amendment) (Coronavirus) Regulations 2020 inserted a new "Part 20 – Construction of New Dwelling houses".

Class A is in respect of new dwelling houses on detached blocks of flats, but paragraph A1 confirms that this doesn't apply to land within 3km of an aerodrome. Aerodrome is defined under GDPO as follows: 2 "aerodrome" means an aerodrome as defined in [paragraph 1 of Schedule 1 to the Air Navigation Order 2016] 2 which is— (a) licensed under that Order, (b) a Government aerodrome, (c) one at which the manufacture, repair or maintenance of aircraft is carried out by a person carrying on business as a manufacturer or repairer of aircraft, (d) one used by aircraft engaged in the public transport of passengers or cargo or in aerial work, or (e) one identified to the Civil Aviation Authority before 1st March 1986 for inclusion in the UK Aerodrome Index, and, for the purposes of this definition, the terms "aerial work" , "Government aerodrome" and "public transport" have the meanings given in [paragraph 1 of Schedule 1 to that Order] 3 ;

I am satisfied that Shoreham Airport is an aerodrome for the purposes of the GDPO because it satisfied both limbs of the above highlighted section as follows:

(1) Firstly, It falls under the definition of an aerodrome as defined in paragraph 1 of Schedule 1 to the Air Navigation Order 2016 as follows: Aerodrome"— • means any area of land or water designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft; and • includes any area or space, whether on the ground, on the roof of a building or elsewhere, which is designed, equipped or set apart for affording facilities for the landing and departure of aircraft capable of descending or climbing vertically; but • does not include any area the use of which for affording facilities for the landing and departure of aircraft has been abandoned and has not been resumed;

(2) Secondly, Shoreham Airport is licensed under the ANO 2016 as required. Shoreham Airport has a 'public licence' (licence no: P906, dated 10 September 2014, see attached) issued by the Civil Aviation Authority (CAA) under Article 211 of the Air Navigation Order 2009 (ANO 2009) to be used as a place of take-off and landing of aircraft engaged in flights for the purpose of the public transport of passengers or for the purpose of instruction in flying, subject to conditions. The ANO 2009 was revoked and replaced by the ANO 2016. Article 211 of the ANO 2009 relates to the "licensing of

aerodromes". The licence for Shoreham Airport provides at recital 10 that: 3 10 'The Air Navigation Order' in this licence means the Air Navigation Order 2009 and any reference to the Order or to any Article of the Order shall, if that Order be amended or replaced, be taken to be a reference to the Air Navigation Order for the time being in force or the corresponding Article of that Order. The licence was issued in 2014 which was before the ANO 2016 came into force.

However, recital 10 of the licence makes clear that because the ANO 2009 has been replaced, it should be read as having been issued under the replacement ANO 2016, thus satisfying the definition under the GDPO.

I trust the above makes sense, but please let me know if you have any questions.

Kind regards Sally

Sally Drury-Smith Lawyer, Adur & Worthing Councils""

Additional to these definitions the airport currently handles (pre Pandemic) around 40,000 to 50,000 aircraft movements each year, making it one of the busiest general aviation airports in the UK. It has its own air traffic control facility and is equipped with runway and taxiway lighting for the after-dark operations within licensed hours. Cyrrus is helping the airport to develop satellite-based approach procedures for use in low-visibility conditions. If there were plans to develop the airport in the future, then any development and planning in the surrounding area should be mindful of ensuring it be future-proof for further aeronautical developments.
Sadly, the airport formerly known as Shoreham Airport is widely known for the Shoreham Air disaster of 2015 where many lives were very sadly lost. Only mentioned as NO aerodrome should be dismissed as non-existent to suit the purposes of development and no potential safety measures should be discounted including prevention of 'stacking' up within 3km of perimeter.

No further justification should be necessary, but for the sake of clarity, BCA ***has*** lodged a safeguarding map with the Local Planning Authority (the appellant mentions this as in their opinion essential) and as CAA document (CAP 738 Aerodrome Safeguarding) – **Page 18** refers to the process of 'non-officially safeguarded' aerodromes such as BCA/Shoreham. (so, it is in fact a safeguarded aerodrome anyway). It is not an 'officially safeguarded' aerodrome without a certain number of regular passenger flights. This should NOT and DOES NOT diminish the same requirement and need for the 3km exclusion zone (re PDR upward airspace developments).

We are aware that BCA also share concerns regarding what's at stake here and that it has wide-ranging implications for **all** aerodromes. The CAA's 'Airfield Advisory Team' (AAT) have also been made aware. AAT was set up a couple of years ago to help airports with matters related to planning that could impact their operations.

Section 5.12 onwards of the appeal statement deals with 'aerodrome'……
The appellant states that they make an **assumption** about what the aerodrome definition is and also another **assumption** (quote from appellant) "the **assumption** must be that the only aerodromes which benefit from a 3km exclusion zone with regard to Part 20 Class A is safeguarded aerodromes."

Appellant further states : " 5.14 Paragraph 'C' of Part 20 Class A provides definitions of the terms referred to in the legislation. There is no definition of 'aerodrome' provided."

Please refer to the legal response by Senior Lawyer 29/9/20 – **for GDPO purposes BCA is an aerodrome.**

If the public are to have trust in the system and those in the industry, and if this new algorithmic system is to have public trust, then this kind of situation cannot be allowed to happen.

It is NOT OK to have permitted development rights to build upwards on almost any building around ANY aerodrome within what should be considered a 3km exclusion zone.

A situation cannot be seen whereby any upward/stacking development is ***so*** essential that it should even be anything like considered as acceptable. It is not.

Other matters to bring to Inspectorate (which are incidental as the above should be enough to agree the original refusal of the project).

Government want to achieve 'building better, building beautiful – sustainable with greener spaces' - This proposal does the opposite. Fairly ugly 'carbuncle' stuck on top of a mid-century fairly attractive block and taking away greener spaces in favour of car parking facility. Also does not encourage environmental and carbon targets. (eg. no bike storage, no car charge points on proposal, no solar panels etc, – all of which should be a given when future planning by prestigious town planners).

5 storeys are proposed (including the ground floor). Definition of a tower block is 6 storeys, and would not be considered without a lift. This proposal does NOT seem in line with Public Sector Equality Duty. Who can be expected to be able to access these top floors, whilst doing several trips up and down with say a weekly shop. Certainly not most elderly, those with mobility issues, disabilities or families or those with children.

The background to this fast track new permitted development plans (Coronavirus emergency August 2020), was to make homes available to the most in need/homeless and to keep the building industry going.
For the past year throughout the pandemic one of the few thriving industries is the building industry, which has not stopped and is busier than ever. The proposed flats are not allocated to social housing – thus not meeting that criteria either.

There is NO shortage of one and two bedroom flats within 1 mile of Lancing station. A Rightmove search this day (9/2/2021), shows 40 flats available to buy, 50 flats available to rent (some let agreed). There is also local approval for around 600 new homes in Lancing some of which *are* designated social housing.

All other points as per the previous many comments made against this proposal, which can be found on the Local Planning Authority website. Many of which, mention proximity to the aerodrome – they can't have all got the understanding and definition wrong.

For all these reasons, plus the original refusal conclusions, the refusal should stand.

(submitted on behalf of leaseholders - Penhill Court)