



HALE PARISH COUNCIL

OF THE HALTON BOROUGH IN
THE COUNTY OF CHESHIRE



DATED THIS SIXTEENTH DAY OF FEBRUARY 2022

MEMBERS OF HALE PARISH COUNCIL ARE HEREBY SUMMONED

**TO ATTEND THE ORDINARY COUNCIL MEETING OF
HALE PARISH COUNCIL**

TO BE HELD AT 7.30PM ON THE

TWENTY FIRST DAY OF FEBRUARY 2022

IN HALE VILLAGE HALL, HIGH STREET, HALE L24 4AE

TO TRANSACT BUSINESS AS SHOWN IN THE AGENDA.

This meeting is to be held, adhering to the legislation of the Coronavirus Act 2020

A handwritten signature in black ink, appearing to be 'B. Hargreaves'.

Mr. Brian Hargreaves

Clerk and Responsible Financial Officer

Note to Councillors:

If you are unable to attend the meeting, please notify the Clerk of your apologies.

Please email: clerk@haleparishcouncil.gov.uk or call 07803611222

Note to Public

Members of the public wishing to address the Council should note that they must advise the Clerk before 10am on the day of the meeting both of their wish to participate in the public forum and their topic. If residents fail to inform the clerk prior to the meeting, permission to speak at the meeting will be at the discretion of the Chairman. All participants are restricted to a maximum of three minutes. If the public wish to ask the Council questions, please note that the Council may not be able to answer the question if the Council has not considered or resolved the question on an agenda item at a prior meeting. Should this be the case, the Council will advise correspondence with the Clerk to request the item should be discussed at a future Parish Council meeting. If the question is considered outside the remit of Hale Parish Council, residents will be referred to Halton Borough Council.

MEETING AGENDA

1. **Apologies** - To Receive apologies for absence
2. **Declarations of Interest** - To Receive declarations of interest
3. **Public Participation** - To adjourn the meeting for a period of public participation

** Please note that anybody wishing to comment should raise their hand, wait to be acknowledged and should address the meeting through the Chair.*

4. **Minutes** – To approve the Minutes of Hale Parish Council Ordinary Meeting held on
 - i. Monday 17th January 2022

To approve the Minutes of Hale Parish Council Extra-Ordinary Meeting held on :-

- ii. Thursday 27th January 2022

5. **Matters arising from Previous Parish Council Meetings**

- i. **Jubilee Celebrations** – Various proposals by the Lord Mayor to be Addressed at the Extra-Ordinary meeting on 16th February 2022
 - j. **Civic Service** – All invitations have now been sent out and replies are being monitored and recorded by Cllr Mitchell
 - k. **CLOPUD** - A representation objecting to the planning application Ref: 22/00019/PLD submitted by Liverpool John Lennon Airport (LJLA) in respect of a planned Solar Panel array was completed and submitted to Halton Borough Council on behalf of the residents of Hale Village.

6. **Ward Councillors Report** – To receive a report from local Ward Councillors if available.

7. Payments and Receipts - To receive and approve the list of payments and receipts made between 9th January 2022 and 8th February as recorded in the cash book record which has been reconciled against the Bank statement to these dates, all payments having been made under Financial Regulation 6.4 as detailed below

97	10/01/2022	Internet/Website	Google Ireland Ltd	-£13.80
92	13/01/2022	Payroll & Scribe	DM Payroll Services Ltd	-£72.00
93	13/01/2022	Subscription	Information Commissioners Office	-£40.00
95	27/01/2022	Salary	Hale Parish Council	-£1,016.21
96	27/01/2022	Expenses	Hale Parish Council	-£10.00
98	28/01/2022	Consultation	F Taylor Buildings (LDC) Submission	-£840.00
99	01/02/2022	Insurance	Hiscox	-£293.99
101	03/02/2022	Postage	Post Office Ltd	-£18.70
100	07/02/2022	Internet/Website	Google Ireland Ltd	-£13.80

8. Accounts - To receive the reconciled bank statement and summary of receipts & payments (1st January 2022 – 8th February 2022) against budgets and to accept them as an accurate record.

07-Feb-22	06:29	Direct Debit (GOOGLE CLOUD EMEA)	82385888GB7AVBCDCR	-£13.80	£36,892.51
01-Feb-22	06:27	Direct Debit (HISCOX)	Insurance	-£293.99	£36,906.31
28-Jan-22	11:22	B/P to: F. Taylor Bldg	LDC Submission	-£840.00	£37,200.30
27-Jan-22	06:30	Salary	HPC	-£1,026.21	£38,040.30
27-Jan-22	06:27	Repayment	ICO Registration & POPPY Wreath	-£65.00	£39,066.51
14-Jan-22	06:41	B/P to: DM PAYROLL SERVICE	Payroll	-£72.00	£39,131.51
10-Jan-22	06:28	Direct Debit (GOOGLE CLOUD EMEA)	82385888G1CKTQFYU	-£13.80	£39,203.51

9. Trustee Amendment – To agree to a proposed amendment to the Trustee Deed for Hale Village Hall permitting the inclusion of Non-Council members on the Hale Village Hall Management Committee.

10. Resident Donation – To consider a proposal by Cllr Brown regarding a donation to a remembrance fund in support of an ex-Parish Councillor who passed away recently

11. Bus Service – To Consider the decline in the bus service provided for residents of Hale Village and to agree a course of action to attempt to help improve the service

12. Sign for Village Hall - To Consider the commissioning and wording for a plaque to acknowledge the work of previous councillors who were instrumental in the re-building of Hale Village Hall and to acknowledge their long term contribution to the both Hale Parish Council and to the Village of Hale. The plaque could be installed & unveiled during the Civic Service on April 24th 2022.



HALE PARISH COUNCIL

OF THE HALTON BOROUGH IN THE COUNTY OF CHESHIRE



DRAFT MINUTES OF THE ORDINARY PARISH COUNCIL MEETING OF HALE PARISH COUNCIL HELD IN HALE VILLAGE HALL ON MONDAY 17th JANUARY 2022 AT 7.30pm

Present: Cllr Williams, Cllr Healey, Cllr Mitchell, Cllr Wright, Cllr Spargo, Cllr Cleary, Cllr Anderson, Cllr McNamara, Cllr Trevaskis, Cllr Brown

In attendance: The Clerk and five Members of the public were present

1. **Apologies** – No apologies were received by the Clerk
2. **Declarations of Interest** – No Interests were declared
3. **Public Participation** – To adjourn the meeting for a period of public participation

The Chair allowed the Lord Mayor to speak about a number of upcoming events and projects.

- i. **The Queens Platinum Jubilee Celebration** - 2nd June 2022 – The Lord Mayor has registered with the Queens guide and a proposed lighting time for Hale beacon is 8.45pm.

Permission to position the beacon on the land adjacent to the Freemans field has been approved by local farmers, the bonfire wood has been arranged and the local Fire Brigade have been notified.

A section of land will be cleared and it is proposed that entertainment in the form of music, children's football, and an archery demonstration will take place. A bar will be available and visitors will be encouraged to bring their own picnic.

It is proposed that to mark the closure of the event a firework display will take place. The relevant authorities have been contacted to ensure that there will be no negative impact on the local environment or wildlife.

Entrance to the event is expected to be through the main entrance to Hale Park and will be confirmed in due course.

- ii. Lighthouse Painting** – Cllr Spargo has been in negotiations with a paint company who are interested in helping to re-paint the Iconic lighthouse at Hale head. This is now a private residence but the occupants are happy to be involved in the improvements proposed. It is hoped that in addition to painting the lighthouse some temporary lighting can be installed to create a focal point throughout the duration of the events planned. It is also proposed that a Union flag can be installed at the top of the building throughout the period.
 - iii. Canon installation** – It is proposed that the installation of the Fawcett canon (circa 1700) currently being renovated by The Lord Mayor will take place on the Village green. It is propose that this will be a lasting monument to mark the Queens Jubilee and a credit installed on it to that affect.
 - iv. Traffic Issues** – It was noted by a resident that there is an “accident waiting to happen” at Town lane near the junction with Cocklade lane due to the vehicles parked on the main road. This is a “pinch point” and it is felt that a resolution needs to be found before any accident might occur. The Clerk will send the concerns of the resident to the Highways dept. at Halton BC.
- 4. Minutes** – Cllr Spargo proposed that the minutes for Hale Parish Council Ordinary Meeting held on Monday 15th November 2021 should be approved as a true record. Cllr McNamara seconded the proposal.

The Motion was approved

- 5. Matters Arising From previous Parish Council Meetings** – The actions taken and an update of progress on outstanding matters was noted and accepted.
- i.** The Clerk noted that the invitations for the proposed Civic Service on 24th April 2022 have not yet been sent out due to concerns about the current Covid-19 pandemic and the wellbeing of potential attendees.

Cllr Spargo proposed that a plaque recognising the efforts of those councillors and residents who were involved in the installation of the current Village Hall should be commissioned. An official opening ceremony has never taken place and he feels that it is appropriate to acknowledge their input.
- 6. Ward Councillor’s Report** – Cllr Wharton reminded the Clerk that a new planning application has been submitted to Halton BC for a Lawful Development Certificate (LDC) on behalf of Liverpool John Lennon Airport. The Clerk advised that this will require a separate extra ordinary meeting to discuss as it is an important issue which needs proper consideration before a resolution can be made.

7. **Payments** – A proposal by Cllr Williams to accept all payments made between 9th November 2021 – 8th January 2022 as recorded in the cash book record which has been reconciled against the Bank statements to these dates, all payments having been made under Financial Regulation 6.4 as detailed was received and seconded by Cllr Spargo

The Motion was approved

8. **Accounts** – Approval of the reconciled bank statement and summary of receipts for the Third quarter of 2021 (October 1st 2021 – December 31st 2021) presented by the Clerk was proposed by Cllr Healey and seconded by Cllr Anderson

The Motion was approved

9. Budget & Precept 2022 – 2023

The Clerk gave an introduction and highlighted the fact that the comprehensive document supplied for discussion is intended to be all-inclusive in its detail giving members and residents all the information required to make balanced opinions

The Chair of the Village Hall Committee gave a summary of the past years Village Hall activities and expressed his pleasure that the Village Hall has operated successfully and viably under extremely difficult circumstances. He went on to praise the work of current staff and to thank the outgoing Bookings Officer for her excellent work. The Village Hall is moving forwards and it is the aim of all concerned to reduce the level of support required from the Parish Council to keep the operation sustainable. Cllr Wright explained that bookings were better than projected and that the annual estimated income had been achieved with 3 months remaining in the current year.

Concerns about the sustainability of the Village Hall and the level of support required to keep it operational were expressed by a small number of members. Their concerns were addressed by the Chair and he explained his interpretation of the current situation. He expressed a belief that budgets need to increase so that program's which improve the area and infrastructure for the benefit of all residents can be undertaken. He reminded members that all money budgeted goes back to the local area in one form or another and that this year he feels attention needs to be directed towards maintaining & improving open spaces and green areas, along with consideration for residents who are experiencing stress or strain as a result of the Covid-19 situation. He feels that the proposed minimal increase in the budget and precept is appropriate and that a substantial part of the demographic will appreciate and support the increase. It is expected that the latest proposals will add value and provide additional support for local groups and volunteers while maintaining current services and safeguarding against degradation.

One resident from the floor warned about the danger of using allotted budget money for projects outside the actual scope of the budget allocation.

- i. It was proposed by Cllr Williams to reduce the proposed Environmental Budget Line from £10000 to £8000.
Seconded by Cllr Anderson

The Motion was rejected

- ii. A proposal by Cllr Cleary to remove the Environmental Budget line at £10000 was seconded by Cllr McNamara. In a tied vote the Chair used his casting vote to overturn the motion

The Motion was rejected

A small number of councillors were concerned about not being included in the pre-council meeting which took place at the request of the Clerk. It was explained that the meeting was arranged to establish a “starting point” for the discussions to take place at the meeting of the full council. A report was distributed by the Clerk 6 days prior to the actual meeting for consideration by members and no matters of concern were registered.

Cllr Wright confirmed that the same process for budgeting and precept has been adopted in all of the eight years he has been a councillor.

A motion to reduce the proposed Grants budget line from £3000 to £1500 was proposed by Cllr Spargo and seconded by Cllr Anderson.

The Motion was approved

- i. The Budget report for 2022 – 2023 was considered by members
With the relevant amendments listed above a figure of **£59,636** was proposed. Cllr McNamara resolved that this should be accepted and Cllr Spargo seconded the motion.

The Motion was approved

- ii. The Precept report for 2022 – 2023 was considered by members
Cllr Cleary proposed that the precept should be accepted at **£47,500** and Cllr Spargo seconded the motion

The Motion was approved

- 10. Civic Service** – Cllr Spargo agreed to contact the Vicar Rev Harvey and confirm that the Civic Service will take place on the proposed date of 24th April at 2pm. Cllr Mitchell agreed to help administer the event and will liaise with Cllr Spargo going forwards.

The Chairman closed the Meeting at 10.00pm



HALE PARISH COUNCIL

OF THE HALTON BOROUGH IN THE COUNTY OF CHESHIRE



DRAFT MINUTES OF THE EXTRA-ORDINARY PARISH COUNCIL MEETING OF HALE PARISH COUNCIL HELD IN HALE VILLAGE HALL ON THURSDAY 27th JANUARY 2022 AT 7.30pm

Present: Cllr Williams, Cllr Healey, Cllr Mitchell, Cllr Wright, Cllr Spargo, Cllr Cleary, Cllr McNamara, Cllr Trevaskis,

In attendance: The Clerk and eleven Members of the public were present

- 1. Apologies** – Cllr Brown recorded his apologies
- 2. Declarations of Interest** – Cllrs Trevaskis and Spargo declared a non-pecuniary interest as members of the LJA airport sound monitoring committee.
- 3. Public Participation** – To adjourn the meeting for a period of public participation

The Chair allowed a number of members of the public to make representations regarding both the agenda Item and also the wider subject of proposed airport expansion and its adverse effect on a large number of residents of Hale Village. In particular a number of residents living in the Baileys Lane area gave personal accounts of the negative impact that the uncertainty is having upon their health and wellbeing.

Attention was drawn to the fact that the current Local Development Certificate (LDC) planning application was submitted on 24th December 2021 and that the notice for submissions to Halton B.C. was published on 10th January 2022. It was felt that this did not give the best opportunity for residents to submit an objection within the 21 day submission period.

Concerns about the validity of the closure of Dungeon Lane and the proposed solar array being situated in the area designated as a Runway End Safety Area (RESA) were expressed. A further observation regarding the concrete based construction of the proposed solar site which appears to be in direct conflict with the safety requirements when a construction within the RESA should be non-frangible in its composition.

Residents were extremely concerned with the lack of consideration and discussion offered by Halton B.C. who they believe have a statutory duty to consult and to offer advice.

It was noted that a large number of residents feel that they are living with a constant threat to their livelihood. They would like to initially be kept informed, secondly, to be consulted and thirdly to be permitted to have some input in the decision making

process. One resident expressed a need to know “What the plans are for Baileys Lane” and believes that the higher tier authorities are negligent in their lack of attention regarding the residents.

There was an overriding insistence by the current residents that they are happy in their present location and that residents feel that they need to express the view that the arrogance of Peel Holding to be able to pre-suppose that they can initiate a compulsory purchase order at will if they are minded to is fundamentally wrong. Consideration was given to a number of issues raised by one concerned resident who uses the bridleway in the application area being discussed. This pathway was installed by Halton B.C. as part of a previous green initiative. However the upkeep and maintenance required to keep the area usable has declined considerably and it was noted that residents have major concerns about the number of people using it with their animals untethered and running loose. In addition the amount of unattended dog waste and bagged waste which has been left in heaps is both shocking and a risk to health.

The Chair reassured all resident that the Clerk would forward the minutes of this meeting to the Higher Tier Authority for their comments and would in the meantime explore the options available for increasing and improving advisory signage in the area to help to improve some of the problems being experienced.

An opinion that any installations of a “green” nature such as the proposed solar array would be wholly supported by the higher tier authorities was partially opposed by the Chair. He gave an example of the recent decision by the Mayor of Liverpool Joanne Anderson who has questioned the validity of the Airport project in question and its associated costs. She has asked officials to explore the availability of other areas of “non-greenbelt” (brown field) status before supporting any new initiative.

It was recognised that Cllr Anderson has supported a proposal to make the Liverpool area carbon neutral by 2030.

Cllr Cleary noted that the decision making process was often difficult in view of the constantly changing nature of politics and the continual changes in personnel. Projects are often subject to change as the originators are not always in office long enough to see them through to conclusion.

The Chair gave an overview of a previous objection submitted to Halton BC by Hale Parish Council.

The submitted opposition to the awarding of a LDC to LJLA was based upon 4 major areas of concern.

- i. The application land is not Operational land in its nature
- ii. Solar Panels are not considered as “buildings” as they are not operational buildings
- iii. No Environmental Impact Assessment had taken place
- iv. No recognition and consideration of the previously identified environmental sensitivity within the application area.

Cllr Spargo made it known that he did not feel comfortable with the motive behind the current LDC application and said that he believed it to be a “smokescreen” which may follow a similar route as previous applications submitted by Peel Holdings in respect of two regional airports at Doncaster and Cardiff where the long term goal was to achieve runway extensions.

Cllr Wright asked whether the previous objection submitted by Hale Parish Council to the original application 21/00310/PLD could be used again in this instance. The Chair explained that the new application 22/00019/PLD appeared to be a lot more substantial in its presentation with an emphasis on the environmental impact of the plan. He proposed that the services of a Professional who is experienced in planning matters should be employed to make an assessment of the current situation and to produce a new submission on behalf of Hale Parish Council in support of its residents. It was recognised that Hale Parish Council is limited in the resources available to it but that there should be an appropriate objection submitted once again in support of local residents.

The Chair reassured residents that the Parish Council will do everything it possibly can to support its residents and acknowledged that the lines of communication should be improved in future to keep residents suitably informed.

A proposal for the Parish Council to delegate authority to the Clerk to engage the services of Jonathan Welch the barrister who helped to arrange the previous objection to a LDC for LJLA was suggested.

Jonathan has extensive knowledge of the relevant complicated issues and is a colleague of Ned Westaway who was also engaged to produce a submission on behalf of the Parish Council for the DALP hearing in the summer of 2021.

Cllr Trevaskis proposed that delegated authority be granted to the Clerk to instruct Jonathan Welch to make an assessment of the current application and to help submit an objection against the LDC 22/00019/PLD. The motion was seconded by Cllr McNamara

The Motion was approved

The Chairman closed the Meeting at 8.30pm

Re: Liverpool John Lennon Airport proposed solar farm

Hale Parish Council representation

22/00019/PLD

Dear Sir or Madam,

Introduction

1. This letter relates to the application dated 24 December 2021 by Liverpool John Lennon Airport (“LJLA”) for a certificate of lawful proposed use or development (“CLOPUD”) under section 192 of the Town and Country Planning Act 1990 (“1990 Act”), seeking certification that it would be lawful under permitted development rights¹ to erect a solar farm at land east of the airport runway (a Green Belt tract of land known as Hale Heath) (application reference: 22/00019/PLD).
2. A very similar previous CLOPUD application was made on 14 May 2021 but later withdrawn (21/00310/PLD).
3. The Parish Council recognises that certificates of lawfulness do not engage the planning merits in the same way as other planning applications, but wish to bring a number of relevant matters to the attention of Halton Borough Council in its consideration of the application. In short, the proposed development is not permitted development and Halton Borough Council cannot therefore grant the CLOPUD.

Background

4. The proposed solar farm would occupy a significant area of currently green, open and entirely unused land directly adjacent to residential development. It is assumed that the vegetation on the relevant part of the site would be lost beneath the solar panels. The only change to the proposed development site in recent years has involved the erection of a new boundary fence (12/00282/FUL), completed in September 2019. Prior to July

¹ (Class F, Part 8 of Schedule 2 of the Town and Country Planning (General Permitted development) (England) (Order) 2015) (“the GPDO 2015”).

2019, the proposed development site was severed from the rest of the airport land holding by Dungeon Lane (which has since been stopped up, to facilitate protection of the Runway End Safety Area (“RESA”)).

5. In 2018 LJLA made a planning application for a materially identical solar farm development at the site, thereby recognising the need for planning permission, and made no reference to the applicability of permitted development rights (18/00513/FUL). Following objections, including from Hale Parish Council, that application was withdrawn. The present (and the other recent) CLOPUD application is an attempt to achieve the same objective but without going through the planning application process. The CLOPUD application is inconsistent with LJLA’s previous position that a planning application was required to facilitate the proposed development.
6. For the reasons that follow, the proposed development would not be permitted development and accordingly Halton Borough Council cannot grant the certificate. In summary:
 - (i) The application land is not operational land, and the permitted development rights therefore do not apply.
 - (ii) The solar panels fall to be considered as ‘buildings’, and as they are not operational buildings, the permitted development rights do not apply.

Reasons why permitted development rights do not apply

(i) The land is not “operational land”

7. The supporting planning statement with the application correctly sets out that in order to benefit from the permitted development rights, the development must (amongst other requirements) be carried out “on operational land”. The area for which the CLOPUD has been applied does not comprise “operational land”, and so the permitted development rights do not apply.

8. In 2012 an application was made by LJLA relating to the green field to the east of the runway, known as Hale Heath, for an alteration of the perimeter boundary and runway end safety area (Application ref: 12/00282/FUL). Whilst that application related to the whole of the field, the area required for the runway end safety area covered only a small part of the southern portion of the field, as can be seen on the plans attached to that application. The rest of Hale Heath was fenced in by the new perimeter fence, but it was not suggested that it would serve any operational purpose, or be anything other than open land. Indeed, the planning statement accompanying that application expressly prayed in aid, in relation to Green Belt openness, the fact that no new building was proposed².
9. The CLOPUD application refers to a proposed solar farm on that part of Hale Heath which is not part of the runway end safety area. Indeed it would be surprising if LJLA were proposing such development on an area set aside for safety.
10. Subsection (1) of section 263 of the 1990 Act defines two categories of operational land, the first where the land is used for the purpose of carrying on the undertaking concerned, the second if an interest is held in it for that purpose. Subsection (2) provides an important caveat where land is more akin to “land in general”:

“263 Meaning of “operational land”.

(1) Subject to the following provisions of this section and to section 264, in this Act “operational land” means, in relation to statutory undertakers—

(a) land which is used for the purpose of carrying on their undertaking; and

(b) land in which an interest is held for that purpose.

(2) Paragraphs (a) and (b) of subsection (1) do not include land which, in respect of its nature and situation, is comparable rather with land in general than with land which is used, or in which interests are held, for the purpose of the carrying on of statutory undertakings.”

² See 2012 Turley Associates Planning Statement at paragraph 7.21.

11. Whether land falls within the category of operational land will be a question of fact in each case: *R. v Minister of Fuel and Power Ex p. Warwickshire County Council* [1957] 1 W.L.R. 861 at 865.
12. LJA has not demonstrated that the land subject to the CLOPUD application is operational land.
13. The mere ownership of the land in respect of which the CLOPUD application is now made is not sufficient to have the result that the land will be considered “operational land”. Something more is required. As per section 263 of the 1990 Act noted above, the crucial question is how the land is used. In this case, the applicant LJA has put forward *no evidence* that demonstrates how this land is used. The plan supplied with the CLOPUD application simply shows the aerodrome boundary, which is not determinative. On the contrary, the evidence which does exist suggests the opposite conclusion: that the CLOPUD site is not operational land.
14. As already noted, the plans and maps attached to the 2012 application for an extension to the runway safety area demonstrate that only a small area of Hale Heath comprises operational land: that part which was required as extra safety area³. The rest of the field (which forms the area the subject of the present CLOPUD application) was adventitiously fenced in as a single field, however this is not sufficient to turn a green field into operational airport land benefiting from these aviation permitted development rights. It is also relevant to note that the 2012 application does not refer in any place to the remainder of Hale Heath being operational land, or serving any purpose relevant to the airport other than being space around which a perimeter fence is erected, because of its ownership.
15. The planning statement supporting the present CLOPUD application makes the very surprising suggestion at 1.4 that whilst the land in question “is not actively being used

³ See appendix 3 to the 2012 application:
https://webapp.halton.gov.uk/planningapps/1200282FUL/OTH_appendix%203.pdf; also see:
https://webapp.halton.gov.uk/planningapps/1200282FUL/PLAN_47061138-P-027.pdf.

– it is unquestionably part of the essential area of the land which is “in use” for the operation of the airport”. This is a bald assertion, for which no explanation or evidence is provided. Nowhere is it said *how* the land is in use for the operation of the airport. That is because it is not in any use.

16. Paragraph 1.5 of the planning statement makes reference to the aerodrome boundary as recognised by the Civil Aviation Authority (“CAA”), however it is not argued in the planning statement that an airport operator must only include operational land within its certified aerodrome boundary. The fact that the land is within the aerodrome boundary takes the question of “operational land” no further.
17. The planning statement at 1.6 suggests the proposed solar farm is “notifiable to the CAA due to its location on operational land within the aerodrome boundary”, however no reference is given to that CAA requirement, and upon closer review it is not to be found in the applicable CAA guidance document – CAP791: Procedures for changes to aerodrome infrastructure⁴. There is no such reference in that guidance to “operational land”.
18. Paragraph 5.6 of the planning statement engages with subsection 263(2) which provides an exception to the definition of operational land where, despite being owned by the undertaker, it is “comparable rather with land in general”. The examples given in the planning statement of “shops, offices, and houses” comprise land the use of which bears no relation to the undertaker’s operations, and logically extends to include open space which serves no purpose at all for the airport’s undertaking (i.e. the land in question in the CLOPUD).
19. The currently adopted local plan policies map shows red hatching indicating the operational area of the airport, and this does not cover the entirety of Hale Heath or LJLA’s landholding⁵. It is also relevant that although the emerging local plan proposes Green Belt release of Hale Heath (to which the Parish Council objects), Policy CS (R) 17 says any development “will only be permitted where it is directly related to: a. a runway

⁴ <https://publicapps.caa.co.uk/docs/33/CAP791Edition2August2016.pdf>

⁵ <https://map.halton.gov.uk/webmaplayers8external/Map.aspx?MapName=UDP>.

extension, including relocation of physical infrastructure including the perimeter access road; b. aircraft and operational site safety requirements; or c. extension or enhancement of the Speke Garston Coastal Reserve"⁶. There is therefore a clear intention that any development on Hale Heath requires a planning application and does not qualify as operational land so as to benefit, without more, from broad permitted development rights. Unfortunately, LJLA's CLOPUD application seems an attempt to avoid having to engage with the consequences of this local plan policy.

20. The adopted and emerging development plan documents both therefore indicate that the land proposed for the solar farm in the CLOPUD is not operational land.
21. The 2018 planning application for a solar farm demonstrates LJLA themselves rightly understood that permitted development rights could not be relied upon and that planning permission was required.
22. LJLA's supporting planning statement to the CLOPUD application seeks to distinguish the 2018 application on account of the planning context having moved on since then, with permitted development rights existing now but not back in 2018 when that application was made⁷. That is incorrect. The planning context has not moved on so as to affect the applicability of permitted development rights (and it has not been explained why this is so): LJLA say in their cover letter to the 2018 application that they had already implemented the 2015 permission relating to the runway safety area and perimeter fencing of Hale Heath⁸. Nothing has changed since the 2018 application in planning terms so far as permitted development rights are concerned.
23. LJLA's case for arguing the relevant land is "operational land" seems to boil down to the simple fact that it has a fence around it. It is suggested this is not enough to make the land "operational land", particularly having regard to the wording of section 263 of the 1990 Act (see above):

⁶ N.b. this part of the policy remains unamended at the present Main Modifications consultation stage.

⁷ See paragraph 1.9 of Pegasus Planning Statement.

⁸ See Peel Energy Cover letter of 2 October 2018:

https://webapp.halton.gov.uk/planningapps/1800513FUL/OTH_20181002_LETTER_ShearerP_CoverLetter.pdf

- (i) The land is not used for the purpose of carrying on the undertaking concerned (the land is open and is not used for any purpose relating to the airport undertaking) (subsection 263(1)(a)); and
- (ii) The interest held in the land is not held for the purpose of carrying on the undertaking concerned (because, again, the land is not held for any purpose relating to the airports operations – it is open has always been unused by LJA) (subsection 263(1)(b));
- (iii) Furthermore, in accordance with subsection 263(2) the land is “comparable rather with land in general than with land which is used, or in which interests are held, for the purpose of the carrying on [the undertaking]”.

24. The Parish Council therefore respectfully submits that, because the land is not operational land, Halton Borough Council cannot as a matter of law grant the CLOPUD because LJA would not be able to rely on the permitted development rights sought.

(ii) The solar panels fall to be considered as buildings and are not operational

25. As LJA’s supporting statement to the CLOPUD application notes, the permitted development rights do not apply where development constitutes “the erection of a building other than an operational building.” The term “building” has a specific meaning under the Planning Acts. In this case the solar panels fall to be considered as buildings, and as they are not operational the permitted development rights cannot apply.

26. It is to be noted that LJA’s position seems to have changed (now seemingly accepting that the photovoltaic units would be “buildings”⁹) since the last CLOPUD application, where it contended that the solar panels were not buildings at all¹⁰.

⁹ Though paragraph 5.11 is somewhat ambiguous on this point.

¹⁰ See page 3 of Pegasus planning statement dated 11.5.2021. Compare with paragraph 5.11 of planning statement for present CLOPUD application.

27. It has been noted that the term “building” as used in the Planning Acts (defined at section 336(1) to the 1990 Act) has a wide definition and has been interpreted “to include structures which would not ordinarily be described as buildings” (Save Woolley Valley Action Group Ltd v Bath and North East Somerset Council [2012] EWHC 2161 (Admin) at [69]).
28. Whether an object is a “building” for the purposes of the Planning Acts is to be judged by reference to three factors considered in detail below: size; nature and degree of attachment; and the degree of permanence. These factors arise from the case of Skerritts of Nottingham v Secretary of State for the Environment, Transport and the Regions [2000] JPL 1025 at 1034 per Schiemann LJ, where the Court of Appeal upheld an inspector’s decision that a marquee erected every year for eight months at a time was, due to its ample dimensions, its permanent rather than fleeting character and the secure nature of its anchorage, to be regarded as a building for planning purposes. The principles from Skerritts have very recently been affirmed by the Supreme Court in Dill v Secretary of State for Housing, Communities and local Government [2020] UKSC 20 at [52] per Lord Carnwath.
29. These factors require the exercise of judgment in each case, subject to the oversight of the court in respect of the usual public law grounds. Nevertheless, some indicative guidance can be drawn from various cases below.
30. **Size:** Whilst a building is normally expected to be of a certain size, there does not appear to be a specific dimensional test, and building operations are only likely to be considered de minimis where they are of an insignificant scale (Buckinghamshire County Council v Callingham [1952] 1 All E.R. 1166). Substantial size and weight of a unit/object will clearly weigh in favour of qualifying within the definition of “building” (Save Woolley Valley at [70]).
31. **Permanence:** As is evident from Skerritts the physical change to the land resulting from the object must be of some permanence but need not be continuous (it may be removed periodically). A number of self build-chalets and sheds erected and suspended on pillars did satisfy the requirement since they were erected with a prospect of

permanence (R. v Swansea City Council Ex p. Elitestone Ltd (1993) 66 P. & C.R. 422). Agricultural polytunnels which remained in one place sometimes for only three months could satisfy this requirement since in that case such a period was “*a sufficient length of time to be of consequence in the planning context*” (R. (on the application of Hall Hunter Partnership) v First Secretary of State [2006] EWHC 3482 (Admin)) at [19]). Poultry units which could and would be moved within a defined area approximately every eight weeks, dragged by a tractor, still had sufficient permanence “*because of the significance of their presence in planning terms*” (Save Woolley Valley, at [72]).

32. **Physical attachment:** This is not in itself conclusive of the matter, but will be weighed against the other factors (Barvis Ltd v Secretary of State for the Environment (1971) 22 P & CR 710 at 716). It is notable that this factor does not appear to be of great importance in recent decisions: whilst it was of considerable importance in the Hall Hunter Partnership case (see at [18]-[19]), it did not appear to weigh heavily in the balance in Save Woolley Valley at all, the judge emphasising at [72] that an object *may be a building in planning law without being incorporated into the land, as part of the realty*” (relying on Elitestone).
33. The fact that an object is prefabricated and easily assembled so that its construction is not an operation undertaken by a builder as such is not conclusive of whether it qualifies as a building, since section 55(1A) of the 1990 Act is not an exhaustive definition of “building operations” (Save Woolley Valley, at [73]).
34. In this case, taking into account the above judicial guidance, the solar panels fall to be considered as buildings (as LJA now seem to accept, contrary to their previous position).
35. Further, the solar panels are not operational buildings, since they are not necessary to the operation of the airport. Rather, they are entirely optional: at present, electricity is drawn from the national grid, which shows that the airport can manage (like any other business) with drawing its energy from the grid. There is nothing particular to an airport that means it requires to generate its own electricity for its own use. Generating its own electricity may support LJA’s operations, as it would for any business. Whilst it may

have benefits to the profitability of the airport (as with reducing any cost), that does not equate to being part of the operations of the airport.

36. The photovoltaic array units would constitute “buildings”, and as the generation of electricity is not a part of the operation of the airport, the array is therefore caught by the exclusionary provision of Paragraph F.1(d) and therefore the proposed development falls outside of the permitted development rights under Class F.

Precedent

37. The applicant has sought to make much of the supposed precedents from other airports in relation to similar applications (Robin Hood, Doncaster; Cardiff Airport, Vale of Glamorgan). Applications for CLOPUDs are narrow exercises of judgment by a local planning authority focusing solely on whether what is referred to in the application would be lawful. Considerations outside of the context of the particular site in question and its lawfulness are irrelevant considerations, and a local planning authority will err in law if it takes them into account. For this reason, Halton Borough Council must not take into account the “precedent” decisions supplied by LJLA in its application.

Conclusion

38. For the reasons provided above, the solar farm referred to in the CLOPUD application would not constitute permitted development, and accordingly Halton Borough Council is respectfully invited to refuse the application.
39. If LJLA wishes to develop the site for a solar farm, the correct way to seek approval for this is through a (further) full planning application.

Yours sincerely,

Hale Parish Council

7 February 2022

Hale Parish Council

Summary of Receipts and Payments

11 February 2022 (2021-2022)

All Cost Centres and Codes

Expenditure

Code	Title	Receipts			Payments			Net Position
		Budgeted	Actual	Variance	Budgeted	Actual	Variance	+/- Under/over spend
1	Asset Purchase				1,000.00		1,000.00	1,000.00 (100%)
2	Wellbeing working group				5,000.00	1,584.92	3,415.08	3,415.08 (68%)
3	Guildswomen Working Group				100.00		100.00	100.00 (100%)
4	War Memorial Working Group				1,286.00	43.73	1,242.27	1,242.27 (96%)
5	Civic Service Working Group				600.00	18.70	581.30	581.30 (96%)
6	Parish Plan Working Group							(N/A)
7	Legal/Consultation Fees				5,000.00	1,700.00	3,300.00	3,300.00 (66%)
8	Grants				1,500.00		1,500.00	1,500.00 (100%)
9	Training				500.00	998.85	-498.85	-498.85 (-99%)
10	Insurance				2,750.00	1,373.10	1,376.90	1,376.90 (50%)
11	Web Site				550.00	151.80	398.20	398.20 (72%)
12	Newsletter				500.00		500.00	500.00 (100%)
13	Audit				800.00	441.00	359.00	359.00 (44%)
14	Subscriptions/Advisory Bodies				1,100.00	1,430.00	-330.00	-330.00 (-30%)
15	Staffing Including NI				18,050.00	14,298.32	3,751.68	3,751.68 (20%)
16	Village Hall Reserve							(N/A)
17	Administration				250.00	94.00	156.00	156.00 (62%)
18	Staff Allowances/Expenses				100.00	239.80	-139.80	-139.80 (-139%)
19	Payroll & Scribe				350.00	477.00	-127.00	-127.00 (-36%)
20	Village Hall Support Costs				13,646.00		13,646.00	13,646.00 (100%)
21	Election Costs				3,000.00	3,191.95	-191.95	-191.95 (-6%)
22	Hall Hire (Rent)				250.00	321.25	-71.25	-71.25 (-28%)
23	Vat							(N/A)
33	Liverpool Airport Working Group							(N/A)
34	Green Belt Reserve							(N/A)
35	General Reserve				5,000.00	60.00	4,940.00	4,940.00 (98%)
36	Contingency							(N/A)
38	Grant - Bookings Officer							(N/A)
SUB TOTAL					61,332.00	26,424.42	34,907.58	34,907.58 (56%)

Income

Code	Title	Receipts			Payments			Net Position
		Budgeted	Actual	Variance	Budgeted	Actual	Variance	+/- Under/over spend
24	Precept	43,724.00	43,724.00					(0%)
25	Vat Recovered	840.00	2,586.51	1,746.51				1,746.51 (207%)
26	Grant - Bookings Officer							(N/A)
27	Other							(N/A)
28	Class Fees - Village Hall							(N/A)
37	Grant- Neighbourhood Plan							(N/A)
SUB TOTAL		44,564.00	46,310.51	1,746.51				1,746.51 (3%)

Hale Parish Council
Summary of Receipts and Payments
All Cost Centres and Codes

11 February 2022 (2021-2022)

Summary

NET TOTAL	44,564.00	46,310.51	1,746.51	61,332.00	26,424.42	34,907.58	36,654.09 (34%)
V.A.T.					1,129.33		
GROSS TOTAL		46,310.51			27,553.75		

1 message

Jason Brown

7 February 2022 at 22:48

To: Hale Clerk <clerk@haleparishcouncil.gov.uk>

Brian,

I'm sure you are aware of the tragic news of passing away.

His daughter has launched a just give page to raise money for the charity Mind on Facebook.

As has done a hell of a lot for the village and a one time member of the parish council. As we are current parish council could I ask that we match whatever the just give page can raise. They have a target of £500.00 pound. Think it would be a great way to honour lans memory.

Regards

Jason Brown

Agenda Items HPC Meeting 21 February

1 message

Malcolm Spargo

9 February 2022 at 14:53

Good afternoon

Would you kindly consider the following two items for this meeting.

1. Plaque Wording - Village Hall

HALE VILLAGE HALL
OCTOBER 2017
National Lottery Funded
The Hale Community thanks
Alison Jones and Evelyn Hudson

for their commitment along with Hale Parish Council to provide Hale with this Village Centre.

The Hall was built and supervised by Terry Colquitt and his team

2. Hale Bus Services

The Village has experienced a decline in the quality and timing of Bus Services provided by the current operator - Arriva.

Journey Times over the past ten years have increased from 40 minutes to over 60 minutes since the last revision in 2021, when the 500 service was replaced by a re-routed 82A service from Hale to Liverpool Centre.

Attempts have been made through Merseyside Transport Authority to make requests for the X1 Express service from Runcorn to Liverpool to be re-routed from bypassing Hale on the A562 to be re-routed through the village. This would cut journey times from Hale to Liverpool by 50%.

I am requesting that through our local Halton Ward Councillor that requests are made to the MTA to review this situation.

There will be many benefits for the community and the increasing number of visitors to Hale in this Jubilee year.

Many thanks
Malcolm