

Evidence to the Secondary Legislation Scrutiny Committee

The Town and Country Planning (Former RAF Airfield Wethersfield) (Accommodation for Asylum-Seekers etc.) Special Development Order 2024 (SI 2024/411)

1. Introduction

This evidence relates to SI 2024/411 (more fully referenced above) (“**SDO**”) and has been compiled by the following organisations who wish to raise a number of policy concerns with the Committee:

- The Wethersfield Airbase Scrutiny Committee (formed by Wethersfield Parish Council under the Local Government Act 1972), which comprises representatives of 13 parish councils whose parish boundaries surround Wethersfield Airbase in North Essex (“**WASC**”);
- The Fields Association, a residents association representing local residents and businesses adjacent to Wethersfield Airbase and within the wider Braintree district;
- The Helen Bamber Foundation, a medical and legal charity working with survivors of torture and trafficking whose clinicians have carried out suitability assessments of people in Wethersfield (“**HBF**”);
- Humans for Rights Network, an organisation providing complex casework and access to justice for asylum seekers and migrants in the UK (“**HfRN**”). HfRN has over 350 clients in Wethersfield to whom it has provided or is in the process of providing casework support;
- Care 4 Calais, an organisation providing direct aid and 1-1 casework support to individuals accommodated in Wethersfield (“**C4C**”); and
- Rainbow Migration, an organisation supporting lesbian, gay, bisexual, trans, queer and intersex (LGBTQI+) people through the asylum and immigration system (“**RM**”).

Evidence has also been provided by local volunteers currently providing conversational English sessions on site.

2. Executive Summary

In summary the policy concerns we wish to highlight to the Committee and which we consider to be of interest to the House as per the Committee's Term of Reference ("**ToR**") are as follows:

- Unsuitability of the site due to its isolated location, prison like surroundings and large number of residents compared to the local community, preventing community cohesion, and causing harm to the mental well-being of the residents. (Paragraph 3(a) ToR)
- Lack of safety for those who live and work at the site, due to the way it is being operated, the unsuitability of the accommodation and the large number of vulnerable asylum seekers being housed there, all of which is resulting in significant harm being caused to them. (Paragraph 3(a) ToR)
- Use and operation of the site does not provide value for money, nor has there ever been any realistic intention for the site to do so. This is highlighted in a recent report by the National Audit Office which revealed actual set up costs for Wethersfield were 10 times higher than budgeted and the Home Office was aware prior to development of the site, that successful delivery to time, cost and quality was unachievable. (Paragraph 3(a) ToR)
- Failure to set out the planning justification for the grant of planning permission in conflict with national and local planning policies or to engage with local communities, the Local Planning Authorities and other statutory bodies. (Paragraph 3(a) and 3(d) ToR)
- The conditions set out in the SDO indicate the potential inadequacy of, inter alia, water supply, drainage, concerns regarding safety from historic contamination, radiation and unexploded ordnance, yet the order permits the continued use of the site prior to the assessment of those important matters. (Paragraph 3(a) ToR)
- The SDO process undertaken means that there has been no opportunity for scrutiny of, or input into, the planning conditions to which the SDO is subject. The parliamentary process in relation to SDO's means that Parliament can either let the SDO continue, or annul it. Parliament has no power to amend it. (Paragraph 3(a) and 3(e) ToR)
- The Home Office's deliberate avoidance of submitting a planning application in the usual way, via the Local Planning Authority, excludes any meaningful scrutiny of, or community consultation regarding, the impact of these

proposals and bypasses the usual planning controls. The SDO has also been laid at almost the last opportunity to do so, despite Home Office knowing since at least October 2023 that an SDO would be sought (Paragraph 3(a) and 3(e) ToR)

- The SDO grants Home Office planning permission (subject to certain conditions), to construct or convert buildings for training facilities relating to any of the Home Secretary's functions. No details of this broad use have been provided. (Paragraph 3(d) ToR)
- The SDO refers to the decision by the Secretary of State that the development will not be EIA development as defined in regulation 2(1) of the Town and Country Planning (Environmental Impact Assessment Regulations 2017). Given the large number of planning conditions attached to the SDO, this decision is surprising. A copy of the screening direction carried out in early February 2024 which concluded that this was the case, together with a copy of the information submitted as part of the screening request, should be made publicly available. (Paragraph 3(d) ToR)
- The SDO is subject to numerous planning conditions which need to be fulfilled either prior to any service user being accommodated on site, or prior to the number of service users increasing above 580. Given that the site is already operational with 645 residents on site (as at 28th March 2024), details of how the planning conditions have been fulfilled (if they have been), should be detailed in Schedule 1 and made available as part of the SDO. (Paragraph 3(d) ToR)

3. Unsuitability of the Site – Location

- 3.1. Wethersfield is situated in rural Essex. Wethersfield Airbase sits 9 miles from the nearest town by road and 1.7 miles from the nearest village of Wethersfield, with no easy safe walking access into the village. Wethersfield is a third tier village within the local Councils hierarchy which means it lacks most of the facilities required to meet day to day needs, with very poor rural public transport links. A bus service is provided by the site operator and runs from the Airbase to nearby towns each day (Braintree 9 miles, Chelmsford 21 miles, Colchester 25 miles). However, with nothing to do within easy or independent reach of the site, a very high level of boredom is noted among the men who are accommodated there, which has significant consequences on both the safe operation of the site and the men's mental health as detailed below. In addition, the bus services provided are

regularly oversubscribed with residents reporting difficulties registering to leave the site via the service.

- 3.2. The Parish of Wethersfield has a population of 1,298 (the village itself has 700) and the SDO proposes to locate up to 1,700 men on the site. This disparity in numbers makes it very difficult for those housed at Wethersfield Airbase to be integrated within the local community.
- 3.3. James Cleverly, MP for Braintree and Home Secretary, expressed concerns that its remote location and surroundings “would mean the site wasn’t appropriate for asylum accommodation.”
- 3.4. The Home Office’s own Community Impact and Insight Assessment of the site¹ states that “as this is a rural location there is no street lighting – this has the potential for accidents once the site is occupied.” With the warmer weather recently, it has already been evident that more of the site’s residents are starting to walk into the villages of Wethersfield and Finchingfield, with no street lighting and footpaths only in certain areas, this potential for accidents recognised by the Home Office has not been addressed.
- 3.5. There is a clay pigeon shooting range nearby, from which gunshots can frequently be heard and the SSHD’s EIAs recognised that the nature of Wethersfield, as a former military barracks, means that *“for some asylum seekers these associations may trigger memories of past trauma in their home countries, which is why the site may not be suitable for those who are vulnerable or have serious mental health needs”*. Many residents report this impact directly to Care4Calais who have provided one-to-one casework support to 197 residents of the site thus far and run a twice weekly drop-in session in a local town for any residents that wish to attend. Attendance rates at the drop-in vary between 40 to 200 people for each session. The institutional, military environment is regularly described as like a “prison” which reminds people living there of past experiences of arbitrary detention, modern slavery, trafficking, torture and/or serious physical harm. Particularly stark are reports from those housed on site who explain they never considered themselves to experience mental health concerns prior to being moved there.
- 3.6. Local volunteers provide twice weekly conversational English sessions on the site and hope to introduce music and gardening sessions. However, these initiatives are limited by the restricted pool of volunteers available to help within such a

¹ See Appendix A

small community and the lack of support and funding from the responsible statutory agencies. Frequently some of the men who wish to attend these sessions are turned away due to lack of capacity in the room provided on site, and the number of volunteers available. The sessions are not run during school holiday periods and there is a concern amongst the volunteers that when these on-site sessions are unavailable the mental health of some of the learners will be impacted further. Whilst the local volunteers wish to help as much as possible, what can be offered to such a large group of men is very limited and relies on the goodwill, ability and stamina of volunteers to continue provision of this support.

- 3.7. The prison-like setting of the site can be particularly retraumatising for LGBTQI+ people seeking asylum, who may have been arrested, detained, imprisoned, tortured or otherwise persecuted by the state in their country of origin for being LGBTQI+. The geographic isolation of Wethersfield acutely impacts LGBTQI+ people seeking asylum, who are often particularly isolated, as many have been rejected by their families and may have limited support networks in the UK. Being accommodated far from any potential LGBTQI+ support groups, community networks or support services can exacerbate these issues. These concerns are also highlighted in RM's report, "Risks to LGBTQI+ people initial and contingency accommodation"².

4. Unsuitability of the Site – Environmental Concerns

- 4.1. A Geo-Environmental Report carried out by consultants, Buro Happold in April 2023³, on behalf of WASC identifies 20 potential sources of contamination which could be present **almost anywhere on the site** due to its history as an RAF and USAF base. The report highlights how a thorough assessment of risks needs to be carried out and plans to manage contamination need to be in place before **any development** occurs on site. In addition to the Buro Happold Report, ground condition reports commissioned by the Ministry of Justice in connection with the site, namely the Stantec – New Prisons, Preliminary Grounds Conditions Assessment dated September 2022⁴ and the Mace Group Feasibility Report dated 25th February 2020⁵, both identify a high risk of contamination due to historic use of the site. The Mace report also recommends that "more detailed than usual contamination surveys will be required to determine the location, extent and type of contamination and what the remediation works might be." All three of these

² [Rainbow Migration's briefing on the risks to LGBTQI+ people in initial and contingency accommodation - Rainbow Migration](#)

³ <https://static1.squarespace.com/static/61d89f42895b8835d83c2663/t/643ec1738ff2cf40b270a5f5/1681834377279/Geoenvironmental+Desk+Study+report+18+April+2023.pdf>

⁴ See Appendix B

⁵ See Appendix C

reports were reviewed by the Home Office in March 2023, prior to their occupation of the site. It is therefore of concern that ground contamination is only now being dealt with as a condition of the SDO if the number of service users is increased above the seemingly arbitrary number of 580. One of the main site control measures in relation to Land Contamination for those already living on site (referred to in Schedule 3, paragraph 14 (b) of the SDO) is signage encouraging good hygiene procedures such as hand washing or sanitation before eating, which given the potential risks identified, does not seem adequate. In failing to address the concerns raised in these land condition reports, the asylum seekers, site staff and volunteers have been, and are currently, at a high risk of serious ill health due to exposure to potential class 1 hazards. This is in breach of the Home Office's commitment to provide safe housing for asylum seekers and also safe working conditions for its employees and volunteers. The SDO acknowledges some of these issues, a year too late, however its conditions still fall short of making the site safe.

- 4.2. Concerns regarding the adequacy of the sewage system were highlighted to the Home Office in March 2023, by Ground Control, the owners of a large area of land bordering the Airbase boundary.⁶ The report by Ground Control provided evidence of overflowing manholes as a result of sewers running from the Airbase to the Wethersfield Water Recycling Centre and expressed concerns that the Home Office proposals to house a significant number of people at the base would "exacerbate the current situation" causing "more frequent environmental impacts". Belatedly these concerns are now being addressed as a planning condition of the SDO, but only if the number of service users is increased by more than 580.
- 4.3. The SDO refers to the decision by the Secretary of State that the development will not be EIA development as defined in regulation 2(1) of the Town and Country Planning (Environmental Impact Assessment Regulations 2017). A copy of the screening direction carried out in February 2024, together with the information submitted as part of the screening request should have been made publicly available as part of the SDO process.
- 4.4. The screening direction issued by the Secretary of State in relation to the initial development of the site for a 1-year period concluded that this was not EIA development due to the limited impacts of the temporary 1 year use of the site and because only minimal groundworks for connection of utilities would be

⁶ See Appendix D

required. The current Screening Direction is surprising given that the development is now being authorised for a further 3 years and the Home Office is aware that more extensive groundworks than originally envisaged, have already and may in the future, need to be carried out to deal with (in particular) the drainage difficulties on site. Typically, development of this scale has required an Environmental Statement, which would need to be considered in advance of the SDO. For example, when the Ministry of Justice submitted a screening opinion to the Local Planning Authority at the end of 2021 for the use of Wethersfield Airbase for one or two proposed prisons, each housing 1700 inmates, it fully accepted that an EIA would be required due to the extensive potential environmental effects of the proposed development. Many of the same considerations apply to the Home Office's current proposals for the site, particularly given that the SDO authorises the construction of up to 4631 sq metres of modular buildings and operational development works including provision of foul water drainage, new substations and fuel storage tanks. Several of the planning conditions to which the SDO is subject would have more appropriately been dealt with within the scope of an EIA, allowing for these issues to be considered fully and transparently providing a measure of accountability to the public.

5. Unsafe operation of the site and harm to asylum seekers

- 5.1. Letters from David Neal, the then Independent Chief Inspector of Borders and Immigration, to The Rt Hon James Cleverly dated 20th December 2023 and to Tom Pursglove MP dated 9th February 2024⁷ raise serious concerns regarding the safe operation of the site. In both letters, David Neal highlights the lack of purposeful activity on site and the deleterious effect this has on residents' mental health leading to a heightened risk of disorder. He refers to witnessing "an overwhelming feeling of hopelessness caused by boredom which invariably, in my opinion, leads to violence." He warned that if numbers were increased from 555 to 800 men on site as was at that time planned this would "increase the risk of a serious incident impacting on the safety and wellbeing of Home Office Staff, contractors and service users onsite".
- 5.2. A recent letter from Tom Pursglove MP to The Rt Hon James Cleverly dated 16th March 2024 confirms that the Home Office have "taken into account lessons learnt as we have increased our occupancy on site at Wethersfield" and have made a decision to cap the regular occupancy at 800 service users. This fails to recognise the safety risks of increasing numbers to 800 highlighted by David Neal

⁷ See Appendix E

and it is concerning that the decision to cap numbers at a lower level than 1700 is not reflected at all in the wording of the SDO.

- 5.3. The recent report by the National Audit Office, Investigation into asylum accommodation 20 March 2024⁸, (the “**NAO Report**”) highlights incidents of unrest at Wethersfield, including hunger strikes and reports of fights and vandalism. The letter from David Neal to Tom Pursglove MP dated 9th February 2024 also refers to the attempted suicide of a service user on site in January 2024. Since January 2024 HfRN is aware of at least 5 separate attempted suicides by men in Wethersfield. C4C reports safeguarding concerns relating to the welfare of residents of the site to the relevant authorities (namely the Home Office, the accommodation provider Clearsprings Ready Homes, Migrant Help and the local authority adult safeguarding team). Currently staff and volunteers are raising and/or escalating existing reports on a near daily basis, which has been the case for a number of weeks. Most reports relate to instances of attempted suicide and/or self-harm and/or people expressing suicidal ideation, hopelessness and despair.
- 5.4. Room sharing, and the resulting lack of privacy and safeguarding concerns, is an intrinsic feature of Wethersfield. Yet the NAO Report notes that “since June 2023, the Home Office has recorded room-sharing as a potential factor in safeguarding incidents. By the end of January 2024, it had identified 857 incidents where room-sharing was considered as a potential factor including nearly 283 incidents involving suicide or self-harm”.
- 5.5. RM have documented the risks of room sharing for LGBTQI+ people seeking asylum, including abuse and harassment, both from others in the accommodation and from staff. RM have found homophobic, biphobic and transphobic harassment to be systemic in initial and contingency accommodation; their report on *LGBTQI+ people’s experience of immigration detention*, conducted with the University of Brighton, highlights examples of LGBTQI+ people having to share locked rooms with people who were openly abusive towards them as LGBTQI+ people, including people only being removed from dangerous room-sharing situations once verbal abuse had escalated to physical⁹. The Government in response to the Women and Equalities Committee inquiry (June 2023) into equality and the asylum process has stated¹⁰ that ‘where a Service User is identified as vulnerable or at risk (which may include LGBT Service Users), the Provider is obligated to specify how the Accommodation Proposed is [sic] meets their specific needs... Service Users who the department or the Provider have identified as having specific needs or being at risk... are not to share sleeping quarters with other unrelated adults.’ RM is concerned that this

⁸ <https://www.nao.org.uk/wp-content/uploads/2024/03/investigation-into-asylum-accommodation.pdf>

⁹ [LGBTQI+ people’s experiences of immigration detention: A pilot study - Rainbow Migration](#)

¹⁰ [Equality and the UK asylum process: Government response to the Committee’s Fourth Report \(parliament.uk\)](#)

is not happening in practice, and neither the Home Office nor accommodation providers are adequately recognising that LGBTQI+ people are vulnerable or at risk of harm in shared rooms or ex-military sites, nor providing suitable accommodation as soon as they become aware of the fact.

5.6. A report was published by The Helen Bamber Foundation and Humans for Rights Network in December 2023, entitled *Ghettoised and Traumatized: The experience of men held in Quasi-Detention in Wethersfield*¹¹. This report highlights their findings, via clinical assessment and casework, that the use of Wethersfield for men seeking asylum has already caused irreparable and profound harm to the service users. They found that men held there have reported anxiety and depression, suicidal ideation, intense desperation and fear, self-harm and acute sleep deprivation, due in part to the following factors:

5.6.1. *Isolation*: Wethersfield's remote location and restricted access exacerbates feelings of detachment from society, while lack of adequate facilities heighten tensions in the site as more men are placed there;

5.6.2. *Detention-like setting*: The camp's resemblance to a prison, with barbed wire and surveillance, triggers traumatic experiences among residents, many of whom have had experiences of other 'camps', in Egypt and Libya for example;

5.6.3. *Lack of privacy and shared facilities*: Overcrowded living conditions significantly impact residents' mental health, and increase the risk of communicable diseases spreading;

5.6.4. *Inadequate healthcare*: Healthcare services are insufficient, with concerns about the lack of trauma focused support and barriers to accessing care."

5.7. Feelings of anxiety amongst those housed at Wethersfield are heightened because of the lack of certainty regarding their futures, due to the changes in the asylum system to be introduced by the Illegal Migration Act 2023 and the concern regarding the Government's Rwanda policy. No legal advice surgeries are being provided in Wethersfield and the effect this uncertainty is having on the residents' mental health is reflected within the HBF and HfRN report and has also been witnessed by the local volunteers. C4C also supports several individuals who report that staff members of the site, in particular the welfare teams, regularly make threats to residents' asylum claims as a way to manage the site. For example, suggesting that reporting mental health concerns will negatively impact their claims, threatening that residents will be deported, sent to Rwanda, or

¹¹ https://www.helenbamber.org/sites/default/files/2023-12/HBF%20HRNF%20Ghettoised%20and%20traumatized_report%20on%20Wethersfield_December23.pdf

forced to leave and become homeless. This exacerbates existing feelings of insecurity, anxiety, and fear amongst residents.

5.8. Whilst those involved with the asylum centre at Napier Barracks have reported an improvement in conditions there since it was first opened, this has primarily been attributed to the reduction in number of occupants together with a restriction in the length of time men are housed there to between 60 and 90 days with an assurance that their asylum claim will be progressed and/or they will be moved on to dispersal accommodation (a house or flat share) during that time. These restrictions were introduced following the case of *R (NB & Ors) v Secretary of State for the Home Department* [2021] EWHC 1489 (Admin), in which Mr Justice Linden ruled on 3rd June 2021 that:

5.8.1. The accommodation at Napier barracks was inadequate in that it did not meet the minimum standards required by the Immigration Act 1999 Section 96 IAA;

5.8.2. Both the process for selecting people to be sent to Napier Barracks, and the process for monitoring their ongoing suitability whilst there, were flawed and unlawful;

5.8.3. From 15th January 2021, when residents were given an order not to leave the site until they were permitted to leave, the claimants were unlawfully detained, both under common law and under the European Convention of Human Rights.

The Court found that if the barracks were going to continue being used then there would need to be “substantial improvements in the conditions there, and lower numbers of asylum seekers living there for significantly shorter periods, with measures to reduce the risk of Covid infection which are consistent with PHE advice”.

Despite this ruling and the experience at Napier Barracks, the number of asylum seekers the Home Office has chosen to accommodate at Wethersfield is far greater than those accommodated at Napier. Furthermore, asylum seekers can be housed at Wethersfield for 9 months with their asylum claims not being progressed at all during that time.

5.9. The HBF and HfRN report also highlights that the ‘screening process’ for deciding who should be placed in Wethersfield is fundamentally flawed. The SSHD’s Equality Impact Assessments, conducted in March 2023, prior to Wethersfield becoming operational, and in December 2023, six months into its use, identified the barracks as “unlikely to be suitable” for asylum seekers who had experienced past trauma, physical and mental disability, and complex health issues including

serious mental health problems where there is a high risk of suicide or serious self-harm or harm to others. The assessments found no practical adjustments could be implemented to make the barracks suitable for physically and mentally disabled asylum seekers. However, lawyers Deighton Pierce Glynn have represented approximately 70 individuals accommodated at Wethersfield, of whom 80% have been transferred out as they were victims of trafficking, victims of torture or individuals with severe mental health problems who were unsuitable to be accommodated there. Between Wethersfield opening and the end of January 2024, 231 people were wrongly moved to Wethersfield and subsequently moved out having been identified as unsuitable by the Home Office in line with the Allocation of Asylum Accommodation Policy.¹²

- 5.10. HfRN has also identified 16 children wrongly treated as adults and placed at serious risk of harm there.
- 5.11. Whilst local volunteers do not initiate conversations with the men regarding their mental wellbeing or the facilities at Wethersfield, they have reported that in the course of their interactions, the men frequently express dissatisfaction with the lack of wifi, boredom (many report sleeping for large periods of the day as there is nothing else to do), dissatisfaction with the food and not being able to cook their own food, equipment in the gym being constantly broken and feelings of despair and depression. These concerns were also highlighted in the HBF and HfRN report.
- 5.12. One of the planning conditions attached to the SDO is the provision of a low-level trauma-informed mental health support service and confidential health advice on site. However, Doctors of the World, in partnership with Medecins Sans Frontieres have been providing a primary healthcare mobile clinic outside the main gates of Wethersfield due to concerns with unresolved/unmet health needs including severe mental health and a lack of trauma informed services of the onsite healthcare provision.
- 5.13. Multiple legal challenges have been issued by asylum seekers accommodated at Wethersfield and four have been selected as lead claimants to proceed to a substantive hearing in July 2024. The Claimants challenge the use of RAF Wethersfield to house asylum seekers on six grounds, including that the Home Secretary has failed to provide a dignified standard of living and that the conditions and regime at Wethersfield amount to unlawful discrimination and create a real risk of a breach of the European Convention on Human Rights. It is

¹² Freedom of Information Request response 6th March 2024, reference: FOI2024/01501

also argued that the Home Office has failed to protect asylum seekers from racial violence and harassment.

6. Not Value for Money

6.1. The Home Office has stated that intention behind the use of large sites like Wethersfield for asylum accommodation is to reduce the use of hotels and thus reduce costs to the taxpayer. However, the NAO Report identifies the following:

6.1.1. that the budgeted set up costs for the Wethersfield site were £5m, but that the actual cost has been £49m;

6.1.2. the Home Office pursued the large sites programme despite “repeated” assessments by both the Infrastructure and Projects Authority and within its own department that successful delivery of the programme to time, cost and quality was unachievable;

6.1.3. the Home Office “prioritised awarding contracts quickly, and modifying existing contracts over fully-competitive tenders”. At Wethersfield this included contracts with Portakabin Limited for £8m, Kier plc (value not recorded) and Clearsprings Ready Homes Limited for £101m which were awarded without using a competitive tendering process;

6.1.4. the Home Office has capped the regular occupancy for Wethersfield at 800, (although this is not reflected in the SDO), far fewer than the 1700 it originally planned. The NAO expects that this will reduce the value for money of the site by around £54m.

6.2. The Accounting Officer Advice in relation to the Asylum Accommodation at Wethersfield dated 24th March 2023 and addressed to Tricia Hayes, Second Permanent Secretary¹³ assumes that 1,700 bedspaces will be available with an 85% occupancy rate, i.e. 1,445 occupants over 5 years. Given that we understand the Home Office is looking to now reduce occupants to below 580, we anticipate the value for money justifications of the site will drop below even the figure referred to in the NAO Report.

6.3. As referred to in section 4 above, concerns regarding the suitability of the site in particularly in relation to contamination and the capacity of the sewage network were highlighted to the Home Office prior to its occupation of the site in March 2023, but at that time were dismissed. These issues (together with others) are

¹³ See Appendix F

now being addressed in planning conditions attached to the SDO and are likely to increase the costs of developing the site further.

- 6.4. An internal Home Office e-mail dated 7 February 2023¹⁴ recommends that the Second Permanent Secretary reserves the lease from Portakabin of up to 1130 bed spaces for a period of 12 months at a cost of up to £72 million. The intention to pay £175 per person per night to lease a bedspace within a portacabin for use at sites such as Wethersfield, clearly demonstrates value for money in comparison to hotel use was never a priority.

7. Planning Objections to use of the Site

- 7.1. As no planning application to the Local Planning Authority has been made, despite the Home Office having sufficient time to do so, it is unclear how the Home Office justifies the development in conflict with national and local planning policies. Section 55 of the Town and Country Planning Act states that without adequate justification proposals should be determined in accordance with the development plan.
- 7.2. There are compelling planning objections to the development and there is no indication that these have been addressed. The airbase is in a remote location and fails to meet the national policy of locating major development in accessible locations to ensure all development is sustainable. Moreover, the site is outside any area allocated for development and should thus be treated as open countryside where only uses and buildings compatible with such rural areas, (such as farm buildings and local enterprise), would be permissible. The SDO permits a precise figure of 4631sq m of floorspace over the base level of existing military buildings. In effect, assuming all existing buildings are retained, this could amount to around 50 portable buildings of poor appearance set in open countryside.
- 7.3. The SDO contains several conditions which require further details to be submitted should more than 580 service users be accommodated on the site. There is no information as to why this figure has been chosen but these details involve the submission of an unusual level of detail, to include such matters as land contamination, drainage, drinking water, an Operational Management Plan (with very detailed requirements relating to policies on such matters as local activities and standards of behaviour) and a phasing scheme of facilities and

¹⁴ See Appendix G

services. These concerns should have been addressed before first occupation of the site and not after an arbitrary level of 580 service users has been reached. In any case, it is understood that this level has already been exceeded so that a breach of planning control is likely to occur once the SDO comes into effect.

- 7.4. Furthermore, the SDO gives consent to the development but requires further details to be submitted to the Secretary of State regardless of the 580 threshold being reached. These include a travel plan (before 11 July 2024) a detailed construction and environmental management plan (before any work commences), site control measures, radiological and unexploded ordnance surveys and risk assessment measures.
- 7.5. The extent of the SDO demonstrates that the use commenced in April 2023 without proper assessment of planning matters or any assessment of local impact and that there are some very important planning issues outstanding some of which are having to be addressed belatedly through planning conditions imposed by the Secretary of State. Whilst it is accepted that some matters pointed out by local communities and the LPA from the outset are now acknowledged as being material considerations, the use should not be permitted to continue until all these matters and other key issues have been properly addressed and the local communities given an opportunity to become fully engaged.

8. Deliberate use of planning processes to exclude all public comment and consultation

- 8.1. The decision to use Wethersfield Airbase to accommodate asylum seekers was formally made by the Home Office in March 2023 and was initially carried out as permitted development under Class Q of the Town and Country Planning General Development Order 2015, which permits emergency development on Crown Land for a time limited period of up to twelve months. The application of emergency powers under Class Q to authorise the use of Wethersfield Airbase for housing asylum seekers is currently subject to review in the Court of Appeal and is listed to be heard on 11th and 12th June 2024.¹⁵

¹⁵ R (on the application of Gabriel Clarke-Holland v Secretary of State for the Home Department and Secretary of State for Levelling Up, Housing and Communities, R (on the application of West Lindsey District Council) v Secretary of State for the Home Department, R (on the application of Braintree District Council) v Secretary of State for the Home Department [2023] EWHC 3140 (Admin)

- 8.2. The SDO extends planning permission to use Wethersfield Airbase as asylum accommodation for up to 1700¹⁶ service users until 10th October 2027. The SDO also grants the Home Office permission to construct buildings and to carry out material changes to buildings, engineering or other works (subject to certain conditions) for the purpose of asylum accommodation or to provide training or education facilities for **any** of the Home Secretary's functions.
- 8.3. This avoidance by the Home Office of submitting a planning application to the Local Planning Authority in the usual way, has prevented any meaningful scrutiny of the impact of these proposals on either the local community or the welfare of those housed at Wethersfield and has avoided all the usual planning controls. It has also meant that there has been no opportunity for those with clear concerns regarding the site to have any input into the planning conditions which are imposed. By using an SDO the Home Office is also bypassing the specific provisions for urgent Crown applications contained in legislation under s.293A of the Town and Country Planning Act 1990.
- 8.4. The NAO Report confirms that before opening Wethersfield "the Home Office took 'limited engagement' with local stakeholders and used emergency planning regulations. It negotiated agreements to use the sites before engaging with the relevant local authorities or making public announcements." This decision not to engage was deliberate. On 3rd March 2023 a submission was made by the Home Office to the Minister for Immigration and the SSHD which stated, "As per your direction we have not initiated communications and engagement with the local leaders, statutory organisations, and the local community."
- 8.5. In a letter dated 27th October 2023 from The Rt Hon Robert Jenrick to The Rt Hon Priti Patel it was confirmed that Class Q was being used to "stand up the development for the initial period" and that an SDO would be sought to enable the use of Wethersfield (and Scampton) for a further 3 years. Despite the Home Office knowing in October (if not earlier) that it would use an SDO to extend the use of Wethersfield Airbase, it has left it until the last possible opportunity to lay the SDO in Parliament (planning permission under Class Q runs out on 16th April 2024) and has done so just days before the Parliamentary Easter recess on 26th March, thus reducing the amount of time available for Parliament to scrutinise the SDO. The Home Office used the same tactic in relation to the Town and Country Planning (Napier Barracks) Special Development Order 2021. The Committee's report in relation to the Napier SDO stated that, "Since the date that the current planning

¹⁶ No more than 580 asylum seekers may be accommodated on the land until the Home Secretary has submitted for approval an operational management plan.

permission expires has been known for 12 months, we found this reason for laying a potentially controversial instrument when Parliament was not sitting unconvincing.” It appears no lessons have been learnt from that.

- 8.6. A letter from Braintree District Council to Liam Burns, Portfolio Director, Accommodation Programme (non Detained), of the Home Office¹⁷ dated 29th January 2024 expresses the local authority’s concern regarding the lack of consultation, “By not using the local planning system and by making a deliberate choice to neither consult with or engage throughout the process of identifying Wethersfield for use as an asylum centre, the Home Office has repeatedly bypassed the local community, residents and stakeholders, depriving them of the opportunity to engage positively and express valid concerns to be addressed”, and which runs contrary to the national guidance within the National Planning Policy Framework.
- 8.7. The NAO Report highlights that the Home Office envisages some of its larger scale sites will become part of its longer-term plans for asylum accommodation over the next 10 years. Given that this might be the case for Wethersfield it strengthens the argument that continued use of the site should be subject to proper scrutiny through the proper planning process.
- 8.8. We would also question whether it is appropriate to use an SDO to enable the Home Office to obtain planning permission to construct or convert buildings for training facilities relating to “**any of the Home Secretary’s functions.**” No details of this use have been provided, despite its obvious broad scope.

9. Conclusion

The organisations listed in section 1 (Introduction) conclude that Wethersfield Airbase is not a suitable location for large scale housing for those seeking asylum and that the unsafe operation of the site is causing harm to those living and working there. An SDO is not appropriate for authorising use of the site for this purpose and prevents any meaningful scrutiny of, or input into the impact of this Home Office proposal.

List of Appendices

¹⁷ <https://www.braintree.gov.uk/downloads/file/3865/letter-to-home-office-wethersfield-sdo-process>

- A Home Office MDPGA Wethersfield Community Impact and Insight Assessment
- B Stantec – New Prisons, Preliminary Grounds Conditions Assessment dated September 2022
- C Mace Group Feasibility Report dated 25th February 2020
- D Report from Ground Control regarding Sewage Issues dated 23rd March 2023
- E Letter dated 20th December 2023 from David Neal to The Rt Hon James Cleverly and Letter dated 9th February 2024 from David Neal to Tom Pursglove MP
- F Accounting Officer Advice dated 24th March 2023
- G Home Office e-mail dated 7 February 2023 to the Second Permanent Secretary