

EXECUTIVE

Minutes of the meeting held on 25 March 2015 starting at 9.35 pm

Present

Councillor Stephen Carr (Chairman)
Councillors Graham Arthur, Robert Evans, Colin Smith,
Tim Stevens and Stephen Wells

Also Present

Councillor Douglas Auld, Councillor Teresa Ball, Councillor Julian Benington, Councillor Nicholas Bennett J.P., Councillor Mary Cooke, Councillor Simon Fawthrop, Councillor Hannah Gray, Councillor Ellie Harmer, Councillor William Huntington-Thresher, Councillor Charles Joel, Councillor Kate Lymer, Councillor Russell Mellor, Councillor Alexa Michael, Councillor Tony Owen, Councillor Angela Page, Councillor Chris Pierce, Councillor Richard Scoates, Councillor Diane Smith, Councillor Melanie Stevens, Councillor Pauline Tunnicliffe and Councillor Michael Turner

187 APOLOGIES FOR ABSENCE

Apologies were received from Councillor Peter Morgan, the Leader on behalf of the Executive, passing on best wishes to Councillor Morgan for a speedy recovery from a recent operation.

188 DECLARATIONS OF INTEREST

There were no declarations.

189 BIGGIN HILL AIRPORT PROPOSAL TO VARY THE OPERATING HOURS

Report DRR15/035

Lawyers acting on behalf of Biggin Hill Airport Limited (BHAL) wrote to the Council on 5th November 2014 proposing that the airport's operating hours be varied pursuant to the terms of the Lease. Report DRR15/035 sought a decision on whether the proposals should be supported or rejected.

A document entitled "Biggin Hill Future" was appended to Report DRR15/035, summarising the proposal and reporting the outcome of BHAL's Public Consultation. BHAL also engaged a polling and market research company to conduct a telephone survey of Bromley residents, the outcome being included in Report DRR15/035. The report also outlined the operating criteria in the

lease and current approved hours. It further outlined the proposed BHAL Operating Hours/restrictions.

The lease to BHAL permitted 125,000 movements per year and the Airport did not expect to increase above 50,000 movements in the foreseeable future. The Airport accommodated 65 businesses, providing over 1,000 jobs. It was identified as a Strategic Growth Area by the GLA and BHAL plans indicated that the Airport could create up to 2,300 jobs over the next 20 years. The Airport proposed to extend business activity within current Airport boundaries, believing it needed more flexible operating hours to achieve its growth potential and to be competitive as a business and general aviation airport. The Airport believed it would attract more business aircraft owners to Biggin Hill, providing trade to new and existing Biggin Hill businesses and leading to a significant increase in employment. The current operating hours were set 20 years previously.

Alongside any extension of operating hours, the Airport proposed to introduce a Noise Action Plan *“to reduce the Airport’s noise footprint with the aim to ensure that the Airport operates as quietly as possible, has minimum effect on neighbours, and has a process of regular reviews and improvements in place”*. The Plan, appended to Report DRR15/035, sought to follow best industry practice. BHAL proposed that the Noise Action Plan would be reviewed in a further five years and thereafter revised at five-yearly intervals or in the event that the annual number of movements at any time approached 50,000 per year.

On 10th November 2014, BHAL’s lawyers wrote to the Council explaining how the proposed operating hours would increase funding the Council received from BHAL. Originally intended as a private and confidential document, BHAL subsequently agreed that the information could be included with Report DRR15/035 in the interests of openness and transparency (published as an appendix to the report). The information set out BHAL’s proposals for three potential streams of new funding to the Council: (i) additional rent payable by the Airport to the Council; (ii) supplementary Community Payments for flights between 22.00 hours to 23.00 hours (BHAL also wrote on 26th February 2015 indicating they would be willing to levy this charge in the period 06.30 hours to 07.00 hours, estimating 50% more in revenues per annum); and (iii) new rates generated by attracting more companies to the Airport under the Government’s six-year incentive scheme.

The Council also conducted its own formal consultation starting on 16th January 2015 and closing on 13th March 2015. To ensure that all residents could comment, the survey and an accompanying letter were distributed to all residential properties in the borough. The same survey was also published online along with extensive documentation supplied by BHAL, including the results of BHAL’s own consultation. A small number of responses had also been received earlier by the Council following issue of a news release confirming receipt of the Airport’s proposal. Neighbouring Boroughs, District Councils, Parishes and County Councils had also been contacted along with local MPs. Information on measures taken to ensure the

reliability of data from the consultation was appended to Report DRR15/035. The appendix also referred to correspondence received in addition to survey responses.

In total, from 41,711 responses received, 31,500 (76%) indicated support for BHAL's proposals, with 10,211 (24%) indicating opposition. The majority of responses, 39,202 (94%), were received from residents across the Borough, with 2509 or 6% received from individuals not resident in the Borough or with unverifiable postcodes. Report DRR15/035 summarised reasons given by residents to support or oppose the proposal with analysis on the consultation outcome appended to the report.

Since closure of the consultation, the Council had received a further 116 items of correspondence to 24th March 2015. Commentary on the correspondence was tabled for the earlier Council meeting (see below) as a further Appendix to Report DRR15/035.

Acoustic Consultants, Cole Jarman, with expertise in the field of aviation, had been commissioned to advise on the adequacy of BHAL's proposals. Cole Jarman's report, *London Biggin Hill Airport, Noise Action Plan Review*, was also appended to Report DRR15/035. In return for any changes to the lease, Cole Jarman's report recommended a series of conditions, controls and obligations on the Airport to satisfactorily control noise emissions; summary recommendations from the consultants were outlined in Report DRR15/035.

A special meeting of the Council had met earlier to consider BHAL's proposals; Council's recommendation and Member views would inform the Executive's consideration. Executive Members attended the Council meeting (Councillor Morgan had previously given apologies) and the Leader thanked all who contributed to the meeting, commending the quality of debate. The recommendation from the Council meeting read:

"That subject to agreement from the airport to all concessions conditions and obligations which can reasonably be required in consideration for agreeing a variation to the operating criteria in the third schedule to the lease and subject to the Executive being satisfied with the concessions conditions and obligations negotiated, the Executive should then agree in principle to the extension of hours and consult again with council before the final decision is made".

At the outset, Executive Members were reminded of the legal considerations that needed to be taken into account. These were also covered within Report DRR15/035.

The Leader called upon Mr Vernon Cole of Acoustic Consultants, Cole Jarman, to advise on implications from BHAL's proposals, particularly in regard to noise limitations and flight path.

Mr Cole suggested it would be necessary to increase the level of controls on the airport by more tightly regulating noise limits and movements in the lease.

At present the lease accommodated up to 125,000 movements per year although the airport did not expect to increase movements above 50,000 in the foreseeable future. Noise level limits in the lease could also accommodate large aircraft by today's standards. Although BHAL would seek larger aircraft with increased noise levels, the airport would generate far less noise than the lease permitted. The noise increase would not be particularly substantial although there would be more activity during unsocial hours. Mr Cole provided commentary on recommendations in the Noise Action Plan (NAP) Review related to noise levels. Mr Cole also referred to a recommendation related to BHAL implementing a scheme to improve the accuracy with which aircraft can be tracked and routed into and out of the Airport.

The Director of Renewal and Regeneration provided clarification on some areas considered during earlier discussion at the Council meeting:

- Concerning a recommendation in the NAP that L B Bromley seek an increase in the amount payable by BHAL to reflect increased business activity at the Airport, including an element for increased noise generated during unsocial hours and the cost to the public purse, it was explained that further discussions were necessary with BHAL (full details of the forecast out of hours operations were not yet available);
- In relation to BHAL discussions with the Civil Aviation Authority (CAA), the Director was advised that BHAL had submitted an application and there would be a formal framework briefing with the CAA on 22nd April 2015. The airport's air space consultants anticipated approval in 2016; and
- There was a direct link in varying the operating hours of the airport and providing an investment of up to 2,300 jobs over the next 20 years - without a variation to the hours, industry could be expected to find the position at the airport unacceptable and investment to create the additional jobs would probably not be attracted.

In response to Member questions it was also indicated that for BHAL to meet proposed noise envelopes, the noise limits therein would provide an overall limit and constrain the number and/or type of aircraft able to operate from the airport. Additionally, if BHAL were granted an amendment to the third schedule of the 1991 Lease, it was better to negotiate a settlement within the lease to reduce the number of flights (the airport not expecting an increase above 50,000 flights in the foreseeable future).

The Leader proposed that if the Council recommendation was supported by the Executive, negotiations with BHAL on concessions, conditions and obligations should include a variation to operating hours for Saturdays, Sundays and Bank Holidays based on 8am to 10pm rather than the operating hours proposed by BHAL namely 6.30am to 11pm on Saturdays and 8am to 11pm on Sundays.

The Portfolio Holder for Public Protection and Safety was unable to support the Council's recommendation or the Leader's suggested amendment to weekend and Bank Holiday operating hours. The Portfolio Holder felt there would continue to be flypath noise. The Portfolio Holder for Care Services advised against submitting particular times when starting negotiations.

Although having reservations on BHAL's proposals, the Deputy Leader supported the Council's recommendation and felt that a reduction to weekend operating hours was a good starting point. As a measure heading in the right direction, he expressed support for the Leader's proposed amendment to operating hours. The Deputy Leader was also mindful of Clause 2(11) of the Lease which provided that the landlord could not unreasonably withhold consent to requests for variation or amendment to the operating criteria; the Deputy Leader wished to avoid any potential for the Council to be considered unreasonable by an arbitrator.

The Portfolio Holder for Resources commended both the officer report to Members and the earlier debate at Council. He highlighted an earlier comment at Council that the lease had been drawn up to support and serve residents. The lease provided for limitations on noise and aircraft. The Portfolio Holder expressed his satisfaction on the benefits of the proposal for job creation opportunities and young people, particularly in regard to the potential for a new College at Biggin Hill. The financial aspects were also of benefit to the Council and he was satisfied that recommended measures would reduce noise levels. The Portfolio Holder expressed his support for the Council's recommendation and the Leader's proposed amendment to operating hours.

In supporting the Council's recommendation and amendment to operating hours, the Portfolio Holder for Education was hopeful on the employment opportunities that would be created by the proposal and was pleased at the potential possibility for a new college at Biggin Hill. He was also encouraged by the proposed system of noise contours and noise envelope to control noise levels and the associated monitoring process. Sanctions could also be applied for non-compliance.

It was confirmed that noise levels associated with the flight path for runway 21 at the airport could be included in negotiations.

It was also confirmed that early and late operating hours for helicopter flights would be included in negotiations. It was further confirmed that flyover noise limits would be lower. The proposed 57dB noise contours would be treated as noise envelopes which were not to be exceeded within the total areas they encompassed. On aggregate, aircraft would have to be quieter compared to noise level limits currently recorded in the lease. The NAP Review recommended operating hours and noise envelopes for those hours categorised as Daytime, Night time and Evening period. Although the noise limits were recommendations in the NAP Review it was possible to have the limits adjusted in negotiations.

The Portfolio Holder for Care Services clarified that, unless there was a major change in the flight path, he was unable to support the Council recommendation and amendment to operating hours. He was, however, supportive of BHAL being successful and felt that this could be achieved without a major effect on residents.

In offering his view to Members, the Leader outlined “pros” and “cons” of the airport’s proposal in conjunction with the Council’s recommendation. On the negative side, the Leader accepted there could be more flights, particularly early morning and late evening. There would also be increased aircraft; however, they would be modern and less polluting. On the positive side, the Leader outlined a number of potential benefits to residents and Biggin Hill Airport:

- tracking data available in live time allowing responsive and objective analysis to concerns;
- no increase in flights over 2010 levels, which is substantially down on the lease;
- noise monitoring – with data available to all for scrutiny;
- noise monitoring mobile station available to be sited anywhere, including Farnborough Hospital;
- new potential approach procedures – with BHAL working with CAA;
- potential to further reduce noise footprint over time, as a result of new technology;
- improvements at BHAL cost;
- income for the Council to help protect front line services, not just £900k but also business rates and less costs of welfare benefits with more in work;
- aviation training college;
- removing circuit training after 5pm at the weekends and on Bank Holidays;
- employment opportunities, potentially 2300 jobs by 2030 with additional local economy benefits;
- fines and removal of permissions to the airport for miscreants who fall foul of any agreement.

The Leader confirmed his support for Council’s recommendation, to be taken with the change to operating hours proposed to colleagues earlier. It was necessary to consider all residents in the borough and the Leader considered the proposal a positive way forward. In negotiations he would be tenacious in achieving the best outcome for the borough.

Members voted on the recommendation from Council and the proposal that negotiations with BHAL on concessions, conditions and obligations include a variation to operating hours for Saturdays, Sundays and Bank Holidays based on 8am to 10pm. A majority of Executive Members voted in support, with Councillor Robert Evans, Portfolio Holder for Care Services and Councillor Tim Stevens, Portfolio Holder for Public Protection and Safety voting against.

The Leader thanked all Members for the manner in which the matter had been concluded.

In consideration of proposals from Biggin Hill Airport Limited to vary the operating hours at Biggin Hill Airport it is RESOLVED to:

(1) agree the following recommendation from Council –

“That subject to agreement from the airport to all concessions, conditions, and obligations which can reasonably be required in consideration for agreeing a variation to the operating criteria in the third schedule to the lease, and subject to the Executive being satisfied with the concessions, conditions and obligations negotiated, the Executive should then agree in principle to the extension of hours and consult again with council before the final decision is made” ; and

(2) the recommendation above is to be taken forward subject to negotiations with Biggin Hill Airport Limited on concessions, conditions and obligations, including a variation to operating hours for Saturdays, Sundays and Bank Holidays based on 8am to 10pm rather than the operating hours proposed by BHAL, namely 6.30am to 11pm on Saturdays and 8am to 11pm on Sundays.

Chairman

The Meeting ended at 10.29 pm