

## QUESTIONS FROM MEMBERS OF THE PUBLIC FOR WRITTEN REPLY

### **From Mr Tony Trinick FREng, Chair of Flightpath Watch, to the Portfolio Holder for Renewal and Recreation**

Why hasn't the final agreement between Biggin Hill Airport and the Council insisted that the 10 pledges are built in, as given to residents by the Airport in 2014?

#### Reply

In consideration of BHAL's extended hours proposal, the Council was not asked/required to consider "10 pledges" but the detailed proposals contained in BHAL's Noise Action Plan. In considering these proposals, the Council must act in a reasonable manner in the interests of both the Airport and the Borough's residents. We are satisfied that we have complied with these requirements which will take the form of a legally binding agreement enforceable under the lease. No such legal status could be given to any "pledges" you refer to unless they were incorporated into the proposals included in the Noise Action Plan.

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### **From Mr David Clapham to the Portfolio Holder for Renewal and Recreation**

1. Extra condition (1) requires a level of fine to be five times the standard landing fee applicable. This is watered-down in the MIL and therefore the condition is not met. Are the Executive aware and happy that the new fine of £500 will be a satisfactory deterrent to all business users?

#### Reply

Without pre-empting the discussion that the Executive will have, a fine level of five times is included in the description and for some aircraft, this could be £500 as the fine level is based crudely on the size of the aircraft. I do think that any fine should be proportionate but stringent and we will discuss this in due course.

The level of fines proposed to be imposed is consistent with the Executive's condition subject to a test of reasonableness that no fine levied:

- Shall be disproportionate to what is levied at other London Airports,
- and go against advice provided in ICAO document 9082, Policies on Charges for Airports and Air Navigation Services.

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2. The structure of the SANARB comprises BHAL staff or supporters. This is weak and lacks challenge. Are the Executive satisfied that this committee has the appropriate membership and specific duties to achieve the important task they have to carry out on behalf of residents?

Reply

The Council has already requested that a representative of the Council is present to satisfy ourselves that this process is vigorous and the Airport have agreed to this. Clearly SANARB members need to be suitably qualified and experienced to determine whether there has been wrong doing and I would have thought that experienced pilots and the like committed to doing this task would be suitable. But, again, this is something we need to discuss in due course. The airport has also agreed that a member of a relevant Residents' Association can also come to the meetings of the SANARB.

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3. As the existing Lease term 'home based' has been effectively replaced by 'Account holders' are there any conditions or restrictions on which aircraft can use the airport in future or from what countries they may emanate?

Reply

The based aircraft concept will largely be irrelevant in the revised operating criteria, with the restriction being used as noise, with specific noise limits in the early morning period being in existence for the first time for instance, which will actually stop some based aircraft from potentially using the early morning period. In addition to the noise restrictions set out in the lease and the NAP, aircraft will need to meet the standards set out by regulatory bodies such as the CAA.

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**From Mrs Giuliana Voisey to the Portfolio Holder for Renewal and Recreation**

1. The MIL includes a serious inaccuracy at item 3: "... LBHA resolved ... not to utilise the period 2200 to 2300 hrs authorised on Saturdays ...." This was never authorised (see recommendation 2, Executive 25.11.16). Will the Executive minute this attempt at prevarication by BHAL?

Reply

The Council has only ever approved operating hours of 08.00 to 22.00 hours at the weekends, which as the Airport correctly state, is 2.5 hours shorter than requested for Saturdays. We will raise this point with the Airport but the MIL, which is the Airport's document, makes it clear that BHAL would need to seek approval in the future to use the Saturday period from 2200 to 2300hrs. I am

grateful to Mrs Voisey for bringing this slightly incorrect wording to the Executive's attention.

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2. It appears that the MIL includes a serious untruth at items 11 and 13. The CAA confirmed on 6.6.16 (i.e. after the date of the MIL) that the new route to R03 had not yet been submitted for approval (Cyrrus mentioned 'difficulties') . How can the MIL possibly be accepted as a valid document? What else does it contain that is less than accurate?

#### Reply

It is true to say that the Airport have begun the lengthy process of applying to change the runway approach 03 which will, if accepted, take away one third of traffic away from overflying Farnborough. It is true to say that the CAA are fully aware of these proposals and have discussed them with the Airport and others. The Airport have not formally submitted the runway approach change proposal to the CAA. The formal submission stage comes at the end of stage 4 of a stage 7 process and BHAL are at the cusp of formally submitting but have not. So, although this is a formal proposal in the sense that it is documented and the CAA know about it etc, it has not been formally submitted by CAA standards.

Stage 4 ends with a "formal submission" and whilst this formality is not complete, the Airport have been open about the progress being made and have included the various reports on their website for all to see, including you. It is evidence of the Airport's intent to implement this new approach that we have received a planning application in May for the installation and operation of runway approach lights for Runway 03.

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3. If Councillors of the Executive approve a document that contains untruths or misrepresentations of the truth, having been alerted to the fact, would such Councillors not be ancillaries to deceiving the residents?

#### Reply

This is a hypothetical question but we do need to make sure that we all understand what is being proposed and the progress being made. The NAP and the detailed MIL, which sets out how the NAP will be implemented, make it clear to the reader what is being proposed, with the numerous council questions over the months adding even more detail for interested readers and residents.

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**From Mr Phil Webb, Treasurer to Flightpath Watch, to the Portfolio Holder for Renewal and Recreation**

1. Why does the lease and variation only consider obsolete ICAO chapter 3 and not at least chapter 4 noise standards? Will the lease be updated to reflect the latest noise standards?

Reply

Many many aircraft fly across the country every day using Chapter 3 aircraft which our noise advisor has informed us is not obsolete, with the Government not banning these aircraft at all. The Chapter 4 noise levels are included in the new proposed arrangements in the early morning period, meaning that for the first time, there is actually a noise restriction for the early morning period specifically. Going forwards the NAP will be reviewed every 5 years and therefore there will be opportunities to reflect the latest noise standards.

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2. Noise protection for residents, in terms of noise proofing of homes, appears to be available to very few householders. Can the exact number of properties who might qualify for help with double glazing be confirmed?

Reply

No, not today, but the Airport are committed to contacting the relevant property owners should this prove necessary and this process will be repeated annually, with noise data used to determine the extent of the need.

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**From Mrs Andrea Stevens, Flightpath Watch Secretary, to the Portfolio Holder for Renewal and Recreation**

1. Does the Council agree that as there is a JR being considered in London courts, that any debate or decision-making in relation to BHAL application to vary the operating hours, would be disrespectful to the authority of these courts?

Reply

No, the Council will respond to any court request and will address any comments it may have about a JR as part of that process.

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2. Regarding the promised 30% ATM reduction along R21 - this is dependent upon a new GPS approach to R03. Failure to obtain CAA permission means R21 will have the same or greater number of ATMs. Could the Council confirm that the CAA have received a formal application from BHAL? Has the

Council seen any documents relating to this application to the CAA?

Reply

Regardless of the outcome of the change of approach for runway 03, the Airport must keep within the reduced noise contours outlined in the Noise Action Plan and these are legally binding as they will be part of the lease. The Council has seen some of the documents relating to this proposal as have members of the public as the documents have been published on the Airport's website. I refer the questioner to the answer given to Mrs Voisey, above.

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3. Would the Council agree that a review of BHA NAP dated August 2016, should be undertaken now, as clearly the 50,000 ATMs limit has been reached? (please see BHACC Meeting minutes dated 21 January 2016 for further details)

Reply

The Airport are operating quite legitimately under the existing lease where they are perfectly entitled to use up to 125,000 movements annually. When or if these proposals are in place, I anticipate that volume will actually reduce from today's levels. If we agree this, the 50,000 volume will be capped as described in the MIL and the Airport will not be able to use the 125,000 volume currently allowed in the lease.

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**From Ella Coates to the Portfolio Holder for Renewal and Recreation**

1. How can Members of the Executive ratify conditions that 'play on words' (see the scandalous example of the proposed 'noise reduction') rather than ascertain that the pledges made are truly reflected in the 'recommendations'?

Reply

The Executive will need to rely on a legal agreement rather than any 'play on words'. It is a legal agreement in the form of the lease variation that will give the Council power to act, ultimately including forfeiture of the lease in extreme situations.

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2. Residents are beyond objecting to an increase in hours. We are now objecting to a Council that (possibly itself misled) has deceived us. The MIL in front of you will crystallise this position. Will this Executive really accept that this is a document that can be ratified as it stands?

### Reply

The MIL which outlines how the Noise Action Plan will be implemented is quite detailed and will deliver improvements. We have to remember that right now the Airport has permission for 125,000 jet movements every year, with all the noise that goes with this. The current proposals do improve the position of the Council and indeed residents.

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3. The press reported that the PM had flights provided by companies at BH for some £100,000. It follows that LBB may also have received incentives or it could not have been so superficial in the documentation of the 'recommendations'. For the sake of transparency, could you please let us know what they are and how the residents will benefit?

### Reply

The Council has not received any incentives from the airport although the Council is of course in receipt of rent, which includes a share of profit depending on the exact performance of the Airport's business.

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## **From Sophie Knight to the Portfolio Holder for Renewal and Recreation**

1. Is the Executive clear that any noise monitors will be correctly placed (not as in the case of Crofton where the monitoring system was at the back of Darrick Wood School half a mile away from the flight path)?

### Reply

There will actually be 3 noise monitors, with the siting clearly important, with 2 of the monitors envisaged becoming permanently sited when the best location has been found by the noise experts installing the system. The third monitor is a mobile monitor, capable of being moved as needed.

Clearly, the Council will need to satisfy itself that the noise monitoring is accurate. We understand that probably the best firm in the world for this specialist work will be installing the noise monitors and conducting the noise monitoring. That said, the Council will continue to keep the services of our noise expert to give us the best advice possible so that the Airport do this properly and that both residents and the Council can be assured of this.

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## From Abigail Rutherford to the Portfolio Holder for Renewal and Recreation

1. With reference to BHAL's Mil point 8: Does the Council agree that BHAL's attempt to mislead the Council in relation to the capping of aircraft (as explained below\*) leads to a failure by BHAL in fulfilling one or more of the 18 conditions set by the Council?

\* This mechanism in BHAL's Management Information Letter (MIL) to establish a cap is ineffective. BHAL knew it when they suggested this type of cap in the letter from on Hogan Lovell dated 9<sup>th</sup> December 2014 ('the Application'): *"12.1 With reference to paragraphs 4.4 and 4.5 of our letter of 5 November, our client does not anticipate the number of aircraft movements exceeding 50,000 per annum within 10 years, since light aircraft movements are likely to continue to decline at the same time as business aviation flights are forecast to increase as more businesses are set up at the Airport offering aircraft servicing, parking and management. In the unlikely event that it becomes likely that that number will be exceeded, our client agrees that it will trigger an early review of the NAP (and thereafter at intervals to be agreed) so as to ensure that the balance of social, economic and environmental issues are kept in check."*

As we know, contrary to the statement by Hogan Lovell, the total of movements was already 50,562 in 2015 (Minutes to the BHACC meeting of 21.1.2016), i.e. the 'unlikely event' has already occurred. The forecast for 2020 of 49,500 is also too close for comfort and appears contrived considering current number of movements.

In the MIL, BHAL pushes the Council even further. Although the MIL repeats that the NAP will be reviewed if the limit of 50,000 movements is exceeded, BHAL now addresses us to 'para 20 of this letter'. Para 20 (Further Information, final paragraph), states: *"Prior to any NAP review, LBHA will prepare actual measured noise contours to be compared with predicted noise contours. Where the additional noise contour falls within the agreed forecast noise contour, no further action will be required."* The Executive must not fall for this trick.

As ST Acoustics (an Aviation as well as Noise expert and frequent adviser to DEFRA) explained: *"Whilst the noise impact of airports is commonly described in terms of the LAeq16h indicator, this methodology does have a shortcoming. Broadly, a difference in noise level of 3 dB for two different individual aircraft flyovers is only just discernible by the person experiencing it, all other features of the sound being the same. But the number of movements of the aircraft that was 3 dB quieter could be doubled compared to the louder aircraft and the same LAeq16h value obtained. Thus, if all the aircraft using LBHA were to become 3 dB less noisy, the movements could be doubled and the same contour area achieved. It would seem that there was no difference in impact, but it is highly likely that those living nearby would not perceive the noise reduction from each individual movement but would notice the doubling of movements and be adversely affected by it."* This mechanism provides BHAL with a useful elastic band, which does not conform to the pledge of a cap of 50,000 movements. By reducing the noise imperceptibly to people on the ground (by way of example, Chapter 14 is 17 dBs quieter than Chapter 3), the number of flights can be increased by a number of multiples. The Executive has to request a different mechanism in order for the pledged cap on movements to be observed. The mechanism as proposed is not fit for purpose. The existing cap in the Lease of 125,000 movements per annum needs to be protected until a more effective mechanism to control movements is devised.

### Reply

Rather than mislead the Council, the Airport's response is actually quite detailed and therefore clear. What it does mean, it seems to me, is that if

50,000 movements are breached, the Council can suspend the new operating hours whilst a noise action plan review takes place. In any event, what is being proposed has to be an improvement on 125,000 movements already allowed.

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### **From Sue King to the Portfolio Holder for Renewal and Recreation**

1. With reference to BHAL's Management Information Letter, point 19, does Bromley Council agree that the only winner in this will be BHAL when the following is taken into account? (See notes\* below)

\*Notes: That LBB has not achieved very much by sacrificing its residents. There is only one winner in this equation, and that is BHAL. Please note that in 2015 dividends of £589,360 (2014: dividends of £389,360) were paid to BHAL's sole shareholder. By contrast, LBB received income of £198,867 in 2015 (2014: 207,124).

Grants and subsidies from the public purse are acknowledged (Note 1.11 to BHAL's 2015 accounts) but only partially specified.

#### Reply

Apart from the rent and profit share that the Council could receive which benefits Council taxpayers, noise contour restrictions are being introduced for the first time - with these benefits to residents affected by the noise being paid for by the Airport's commitment to increase expenditure to introduce noise monitoring software for instance.

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### **From Mr Charles Mill to the Portfolio Holder for Renewal and Recreation**

1. We should be at the end of the approval process, so why have none of the ten pledges been honoured and included in the Deed of Variation? Do you honestly think that attaching a document produced by BHAL (the MIL) is an acceptable substitute for a properly drafted legal document?

#### Reply

The properly drafted legal document is included in the committee papers and all of the detail in both the MIL and the, Noise Action Plan (NAP), will also be legally enforceable as they will be included as appendices in the lease. There is strength in these documents that will give more power to the Council and transparency to residents than currently exists and this is to be welcomed.

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2. The Council made two clear pledges: reduction in noise and cap of 50,000 flights. The 'recommendations' were the tools to achieve this. So why is noise going to double and the cap of 125,000 in jeopardy of being exceeded? Can you, Members of the Executive, honestly ratify the MIL as it stands?

Reply

These proposals will control the noise and there is effectively a cap of 50,000 being proposed. We do need to remember the context here, with current arrangements allowing 125,000 flights, and with no limit on the number of take-offs between 0630 and 0700.

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3. Residents have proved that BHAL is not enforcing its own Standard Departure Procedure from R03 (among other matters). As the MIL is a masterpiece of double meanings and caveats, are you, Members of the Executive, satisfied that you have the required mechanisms to manage this unruly tenant?

Reply

Tonight, we are here to assess whether the 24 conditions previously imposed have been met. I have already spoken about the legal agreement but if this proposal goes ahead, as well as residents monitoring, the Council is very clear that we will be monitoring this very carefully indeed, both from afar and up close. We have a range of options open to us, including, ultimately, the forfeiture of the lease.

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**From Mr Nick Bell to the Portfolio Holder for Renewal and Recreation**

1. Item 1. of the Management Information Letter (MIL) refers only to 2014 noise levels and only mentions NAP1, with NAP2 not being considered at all. Surely the approval should be based on current noise levels and consideration should be given to NAP 2 which considers noise contours between 6.30 and 7am which is the period that the extended hours are all about. Is the Council intending to challenge BHAL's omissions in these respects.

Reply

For information, 2014 noise data was used as this was the data available in 2015 when the NAP was drafted. The noise envelopes referred to in this point are all contained in the NAP and are referred to elsewhere in the MIL. It must be recognised that the MIL is a legal document working alongside the NAP. It does not replace it and does not need to replicate everything in it.

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