

## **Response to Flightpath Watch review of the Noise Action Plan December 2021**

After receiving the document entitled “Review of BHAL’s Noise Action Plan 2016-2020” from Flightpath Watch, Bromley Council sought the opinion of independent counsel as requested within the document. This opinion was given by Katharine Holland QC in a consultation attended by Bromley Council officers.

The Flightpath Watch document includes within it a Summary Table laying out the issues they raise, references and actions they would like taken. An amended version of this table is published as a summary version of counsel’s opinion within the report to the Executive Committee.

This response addresses each of the specific points raised by Flightpath Watch in turn along with other issues raised in the more general areas of their document.

As part of their Executive Summary, Flightpath Watch states: “In fact, the height of aircraft in the borough is more likely to be between 1,000 and 1,600 feet, which in practice means between 400 and 1,000 feet above homes, taking into account the actual ground level. “

While aircraft departing from and arriving at Biggin Hill Airport may, necessarily, be at lower altitudes, it is not the case that aircraft in the borough are likely to be at a low altitude. This disregards that aircraft in the borough serve airports other than Biggin Hill. Aircraft serving Gatwick, Heathrow, other London airports and airports further afield will pass over the borough at altitudes far higher than the Flightpath Watch report suggests.

In addition, while the altitude of aircraft may affect noise, altitude in itself is not a material issue. Noise around Biggin Hill Airport is recorded as noise contours and, during the early morning period, as a single noise event. If low flying flights do not breach the single noise event limit or cause the noise contours to be exceeded, there is no issue against which the Council can take action. BHAL supply noise contour reports to the Airport Consultative Committee on a quarterly basis. None of these reports have shown the noise contour being exceeded.

Flightpath Watch state: “The five-year NAP review is the opportunity for Bromley Council to ensure that all agreed conditions are complied with.”

The Council has been undertaking this work since the NAP was signed, representing the borough’s residents on a number of committees overseeing the work Biggin Hill Airport and through officers taking on the responsibilities of the Airport Monitoring Officer whether under that title or otherwise. The Council has specifically returned to the commitments of the NAP and MIL in its investigation of Biggin Hill Airport’s review of the Noise Action Plan and has also employed independent consultants to do so.

## **Response to individual points raised**

### **Cap on movements**

Flightpath Watch suggest that a five-year limit was added to the MIL incorrectly. Minutes of the June 2016 Executive meeting, and the Report created for that meeting, show that the five-year period had been discussed prior to approval. As such, the claim of 'manifest error' is incorrect.

Flightpath Watch highlight that in 2016 and 2017 this 50,000 movement limit was exceeded and extended hours were not suspended while the NAP was reviewed. It should be noted that BHAL did not begin operating the extended hours until May 2017, nor was the cap valid before this date, and that in any 12-month period after that date the movement cap of 50,000 was not exceeded.

In its NAP review, Biggin Hill Airport has a projection of 54,750 movements by 2025. Biggin Hill Airport is required to provide a projection as part of the NAP.

It is also worth noting that BHAL has not proposed a new movement limit as part of the Review of the Noise Action Plan 2016-2020. RSK Acoustics, in its report, suggests that a cap would need to be retained and that, should a change be proposed it must be justified with both contours and a disclosure of fleet.

### **New approach to Runway 03**

This was a commitment made in the NAP, which predicted this new route, that promised to alleviate 30% of traffic from the north of the borough, would be in place by autumn 2016. As is made clear in the Review of the Noise Action Plan 2016-2020, this has not yet been achieved. Flightpath Watch do not accept BHAL's explanation about delays to the process and believe the airport knew it would not be in place by the autumn of 2016.

Flightpath Watch quote from a report, but omit the opening words of the sentence they are quoting. This omission reads: "In the main, aviation consultees supported the principle of the proposed IAP, although..." This gives a different context to the quote.

Flightpath Watch also state that in June 2016, the CAA said they had not received a 'formal proposal' from Biggin Hill Airport. The 'formal proposal' is one stage of the CAP 725 Airspace Change Process. There is evidence that the process began in April 2015.

Flightpath Watch quote point 7.20 of the July 2021 Airport Consultative Committee meeting. They do not quote point 7.21 in which the Biggin Hill Airport CEO states the Airport has spent approximately £500,000 on the Runway 03 ACP to date, expressing the Airport's investment in the public arena.

However, the council shares Flightpath Watch's frustration that this ACP has taken this long to implement. We are asking for evidence of attempts to progress the ACP, will continue to press BHAL to do all they can to ensure the ACP is implemented as soon as possible and that they continue to invest in the process.

We are advised by counsel that we cannot suspend extended hours over this issue at this time.

### **New hours of operation**

We agree that an error occurred in writing the extended operating hours into the MIL and will take efforts to have it altered at this time.

### **Noise**

Flightpath Watch are unhappy with the use of the LAeq16h average noise measurement, which records the average level of noise over a 16-hour period, as it was questioned by an acoustic expert commissioned by them at the time the NAP was being created.

This is a measurement used in the government's Aviation Policy Framework and which the Council's own acoustic expert approved at the time of the NAP's creation. In addition, the Council's expert refuted the claims made by Flightpath Watch's expert.

It may be worth noting that in their reports on Biggin Hill Airport's NAP review, neither RSK Acoustics nor the CAA raised issues with this measurement method.

Flightpath Watch also contest the setting of the noise contour at 57db. Again, the Aviation Policy Framework supported this level as the onset of significant community annoyance.

Subsequent research has seen this level reduced, though this research was not published at the time of the NAP's creation, so could not have been utilised.

RSK Acoustics and the CAA both raise questions about whether the latest governmental guidance regarding the level of noise at which community annoyance begins could be applied moving forward. The Council will be taking this forward with Biggin Hill Airport.

Flightpath Watch raises the lease (Third Schedule Clause e) ii) (b)) which they suggest requires that noise limits be revised in line with Government revision. Counsel advises that this is not the case, and that this clause specifically refers to noise limits on individual aircraft, not on noise contours as Flightpath Watch suggests.

Flightpath Watch suggests the northern noise monitor is misaligned and that this has an effect on readings and contours. While the monitor is to the west of the line of the runway, it is within the boundaries suitable for such a monitor. The noise violation limit and noise contours were set based on the monitor in position.

Flightpath Watch object to the way in which the noise footprints were calculated. At the time of the NAP, LBB's acoustic consultant stated: "the limit equates to a noise exposure that is 50% of that which might reasonably be expected based on the forecasts in the UDP".

## **Maximum Noise Contour**

Flightpath Watch point out that the wrong wording is used in relation to the 'Maximum' Noise Contour. The Council agrees and will put this to the Airport. The Council also agrees that the ACC is not qualified to judge noise contours, that the review is an undertaking between the Council and BHAL and that the term 'movements' should be used instead of 'flights'

## **Non-compliance with the Noise-Abatement Route for departures to the North**

The lease states that Biggin Hill Airport should use "best endeavours to observe or cause to be observed... noise preferential routings". There is no noise preferential route defined in the lease.

Counsel confirms that incidents of individual aircraft not following the route does not lead to the Council rescinding the lease. If BHAL are acting in the correct fashion to investigate complaints and take action against transgressions, they are complying with the lease.

The Council has worked, and continues to work, to ensure any such transgressions are investigated properly and sanctions applied by the airport where appropriate. Such sanctions can be seen in the minutes of Airport Consultative Committee.

The fact that numbers of complaints and sanctions published by LBHA can be interpreted in two different ways by BHAL and Flightpath Watch would suggest that the numbers alone cannot be seen as 'proof'.

Counsel advises it is not appropriate to rescind the lease in relation to this point.

## **Noise-monitoring and track-keeping (NMTK) system – WebTrak**

Bruel and Kjaer continue to be the market leaders in producing the track-keeping software used by the Airport, which has enabled concerned residents to report concerns online via a map-based system. The Airport has responded to concerns by examining them closely and as well as relying on responses from Bruel and Kjaer, they have also conducted their own study, which the Airport Monitoring Officer has observed directly in part. It should be noted that whilst the Airport Monitoring Officer is not in a professional position to validate the Airport's research, the weight of evidence that the Council has been presented with does not suggest there are any significant inaccuracies in the Webtrak system. Therefore, the Council has encouraged the airport to publicise the actions it has taken in the public domain to increase understanding of, and confidence in, the accuracy within the system.

## **Corridors**

Flightpath Watch contend that corridors attached to noise preferential routes are only applicable to major airports. There is nothing on the CAA webpage detailing NPRs to suggest this, in fact, they separate out major airports and others within the page (<https://www.caa.co.uk/Consumers/Guide-to-aviation/Airspace/Noise-preferential-routes/>)

Regardless, at 4.37 of the Noise Action Plan it states that: “preferential routes will be defined and Track Violation Limits (TVLs) set in the programming of the NMTKS”. These TVLs could be described as a corridor or swathe around the central line of the NPR that allows for aircraft of different specification operating at different weights in different conditions to deviate from the central line.

Flightpath Watch quote from the UK AIP, which is information supplied by Biggin Hill Airport to National Air Traffic Services. As such, Flightpath Watch is suggesting Biggin Hill is instructing against its own instructions.

As has been previously confirmed, BHAL are not in breach of the lease if individual aircraft stray from an NPR. The appropriate question is, “Are Biggin Hill Airport taking best endeavours to stop this?” They have a complaints system in place and have warned pilots, applied sanctions and banned operators.

We recognise that this is one of the most important areas for Bromley residents and will be asking Biggin Hill Airport what further steps they could take to reduce the occurrences of NPR breach.

However, counsel advises it is not appropriate to rescind the lease based on this issue.

### **Non-compliance with the Noise Preferential Routing for Circuits**

As previously stated, while the lease references noise abatement procedures and noise preferential routes, there are no noise preferential routes appended to the lease. Any graphical representation Flightpath Watch have is not part of the lease.

There is information about noise abatement procedures for visual circuits in the UK AIP. This states that: “Overflight CAA Environmental Research and Consultancy Department 27 October 2021 19 of the following Noise Sensitive Areas should be avoided, unless necessary to fulfil an ATC instruction such as to extend downwind for spacing, Keston Village The Leavesdon Estate and Leaves Green.

If these Noise Sensitive Areas are passed into without good reason, as stated above, the Council would expect Biggin Hill Airport to be taking action against the pilots and would be arguing for such sanctions to be applied at the appropriate committee meetings.

### **Helicopters and Light Aircraft**

Flightpath Watch state that: “We know from communications with the Ombudsman that BHAL, via LBB, stated to the Ombudsman, with regard to the first and seventh bullet points, that the language is “unclear” and that it needs to be clarified to mean that helicopters or light aircraft flying above 2,000 feet are allowed in Noise Sensitive Areas.”

The Ombudsman, which had been contacted by a Member of Flightpath Watch, in direct communication with the Council, stated the Council should: “Have further discussions with the Airport about the problematic wording of the Code of Conduct attached as an Appendix to the MIL which covers overflights of noise sensitive areas by aircraft following visual flight rules.” This contradicts what Flightpath Watch say.

Helicopters, like any other aircraft, must only enter an NSA if it is unsafe for them not to do so. If a helicopter enters an NSA, it must be investigated and if there is no good reason, actions taken. That a complaint is made is not proof that a breach has occurred. But Biggin Hill Airport must remain vigilant and responsive in taking corrective action where it is appropriate, and the Council continues to impress the importance of this on them.

Counsel advises it is not appropriate to rescind the lease based on this point.

### **Overall government noise policy**

In addition to Flightpath Watch, both RSK Acoustics and the CAA have referenced government noise policy in their responses to Biggin Hill Airport's review of the Noise Action Plan. Those responses have been summarised in the report for the Executive Committee and appended to the report, and play an important part in the Council's suggested response to the NAP review.

In conclusion, having considered the points made by Flightpath Watch, counsel concluded there were no grounds on which to rescind either the increased hours or the lease at this time.

The Council will, of course, continue to work hard to ensure Biggin Hill Airport keeps to the commitments made in the Noise Action Plan and to go beyond them where possible to reduce noise disruption felt by Bromley residents.

December 2021