

EXECUTIVE

Minutes of the meeting held on 8 August 2011 starting at 7.00 pm

Present:

Councillor Stephen Carr (Chairman)
Councillors Graham Arthur, Ernest Noad, Colin Smith and
Tim Stevens

Also Present:

Councillor Douglas Auld, Councillor Julian Benington,
Councillor Ruth Bennett, Councillor Eric Bosshard,
Councillor Roger Charsley, Councillor Simon Fawthrop,
Councillor Peter Fookes, Councillor David McBride,
Councillor Tony Owen, Councillor Richard Scoates,
Councillor Harry Stranger and Councillor Stephen Wells

52 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Robert Evans and Peter Morgan.

53 DECLARATIONS OF INTEREST

There were no declarations of interest reported.

54 QUESTIONS FROM MEMBERS OF THE PUBLIC ATTENDING THE MEETING

Four written questions from Councillors and five from members of the public had been received, together with one oral question from a Councillor and seven from members of the public. Copies of the questions together with the answers are set out in the Appendix to these minutes.

55 BIGGIN HILL AIRPORT OLYMPIC PROPOSALS

Report RES11073

Further to Minute 19 of the Executive meeting on 22 June 2011, consideration was given to a report on the outcome of the consultations concerning the second application received from Biggin Hill Airport Limited (BHAL) for a more limited extension of the flying hours during the Olympic period next year. The consultation period had run from 23rd June to 29th July 2011 and circulated with the agenda, published on 29th July 2011, were details of the results up to and including the 27th July which was followed by the final updated figures circulated on 2nd August 2011.

The report set out the revised application from BHAL and for ease of reference had appended the two previous reports setting out details of the first and this subsequent application. The current request was for alterations to the operating hours for the periods between 13th July – 19th August and 28th August – 12th September 2012 as follows:

Weekdays – that restrictions applied to the shoulder operating hours, would be eased to permit arrivals from 0630 in the mornings and departures until 2200 in the evening. BHAL had also guaranteed to restrict the number of movements between 0630 and 0700 to a maximum of 3.

Weekends and Bank Holidays – that the current opening hours be extended by 1 hour in the morning and 1 hour in the evening on Saturdays (i.e. altered to 0800 – 2100) and by one hour in the morning and two hours in the evening on Sundays and Bank Holidays (i.e. altered to 0800 – 2200).

The Chairman advised that all letters and communications received by the Council even after the closing date would be taken into consideration. He reported that Councillor Alexa Michael who was unable to be present at the meeting had submitted views opposing BHAL's request. A letter had also been received from Jo Johnson MP for Orpington reflecting residents' concerns. Several members had indicated they wished to speak and he proposed to take those first before opening the Executive debate. Some updates would also be given by officers.

Councillor Fookes reiterated the Labour Party's position in support of the application as it was for a temporary period only and would bring new jobs locally. He felt the Council should show its backing for the Airport.

Councillor Auld spoke in opposition to the request citing the lack of a Business Plan and the noise disturbance during early mornings to his ward and particularly the Princes Royal Hospital which were on the flight path. Whilst noting the comments about not setting a precedent he still had concerns.

Councillor Simon Fawthrop also speaking in opposition referred to the Atkins report and felt that it was primarily based on aircraft movements rather than business aviation. He thought it very important that the clause remained unchanged as it was there to protect businesses based at Biggin Hill Airport and could not see their rationale about increasing the number of jobs. Concerning the setting of a precedent he also had significant concerns regardless of any legal advice that might have been taken. Councillor Fawthrop suggested the setting up of an independent Committee (which he was willing to chair) open to the public to look at the lease which would take into account residents' views and those of BHAL. This would show that the Council was not unreasonable and was acting in an open and transparent manner.

Councillor Scoates commented on the consultation process and whilst accepting that it was not a referendum thought that residents who had

responded to the first consultations assumed that their views would automatically be carried over to this round. He questioned the position in respect of those people who had responded in favour who lived outside of the Borough and in some cases on the other side of the world who had little connection to local issues. He also had reservations concerning setting a precedent and refuted the suggestion that turning down the application was being unpatriotic. Nor did he see any evidence to support the claims for an increase in jobs or any financial benefit that there would be to local businesses as most people going to and from an Airport tended not to stop in the locality but wanted to get to their destinations as quickly as possible. There were also the environmental concerns about noise disturbance and for all these reasons he strongly opposed the application.

Councillor Owen was against the proposal and voiced the objections of residents in his ward particularly about what he viewed as the expansionism of the Airport. *(The Chairman stated that a full record of his comments would not be included as Councillor Owen had made certain disparaging remarks about BHAL's Managing Director and other comments that were not factually based).*

Councillor Benington, who was a Biggin Hill ward member and lived in Downe under the flight path, spoke in support of the application. He had changed his mind from previously objecting as he felt BHAL had made significant changes to accommodate residents' views. BHAL were a major employer in the area and should be supported. The only reservation he had was that if approval was given then a restriction on helicopter usage should be sought for the period.

Councillor Ruth Bennett referred to the difficulties in making a decision of this nature with Ward Councillors naturally wanting to voice their residents' views. However, she pointed out that this was not a political issue but a legal matter. Councillor Bennett felt that there was a lack of objective evidence available. For example noise pollution had been mentioned but no measurements had been produced and she thought there should be more noise monitors. She had considered the legal advice given in the previous report but still found the situation difficult to judge. One issue of concern was the very likely increase in helicopter usage and she felt that there should be restrictions on the number of movements. Having looked at all the factors Councillor Bennett felt BHAL had not proven their case and there was a lack of objective evidence therefore the application should be rejected.

The Chairman thanked members for their contributions to the debate and asked the Officers to report on the latest situation and clarify certain information. The Director of Renewal and Recreation briefly outlined the background to the current request as detailed in the report. He referred to the explanation concerning the estimated number of additional flights the change to the hours would bring in a worse case scenario situation (detailed in Paragraph 3.5 of the report). This would result in a maximum of 140 additional flights per week during the 8 week period requested. The consultations had resulted in a total of 1741 responses as opposed to 2193

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previously. 40% of the current number supported BHAL and 60% had opposed any change.

The Director of Resources advised that as explained in the previous report to the Executive (21st March 2011) the view had been taken that agreeing to the changes to the lease as requested would not set a precedent. Since then the opinion of Queen's Counsel had been sought which fully confirmed this view and that any application should be dealt with entirely on its merits. On the issue of agreeing the change for the Olympic period only Counsel strongly advised that there would be no legal basis to argue a precedent had been set. The Director therefore cautioned members against using precedent as a ground for refusing this application.

For background information the financial implications were reported where under the terms of the lease payment was made to the Council of a return on a percentage of the Airport's turnover. Members were advised that if BHAL were to increase their profit then this would increase the Council's share. However, this percentage was only a modest figure and any increase in business would need to be quite substantial to be noticeable. The Finance Director reported that the return to the Council was about £160,000 in 2010/11. However, as no detailed information was available from BHAL no exact figures could be given.

The Executive went on to discuss the application and Councillor Colin Smith agreed with the views of Councillor Bennett on the need for objectivity. He emphasised the need to stick to the facts rather than being sidetracked by emotive opinions. It was plain that residents groups did not want to see the Airport expand but it could not be expected that there would be no changes with a lease of over 100 years. He also felt assured on the additional legal advice given on the setting of a precedent. However, for the following reasons he could not support the application, firstly despite a number of requests to BHAL to see the data backing up their statements on jobs and job creation this had not been forthcoming. Nor had any business case been made to show the benefits to Bromley residents. The other major issue was increased helicopter usage in the early mornings and late at night. There appeared to be a lack of trust between BHAL and local residents and until that was 'healed' this would continue. Councillor Smith invited BHAL to do more to allay people's concerns by agreeing not to fly helicopters during the shoulder hours.

Councillor Tim Stevens read out a brief statement from his colleague and fellow ward representative, Councillor Evans who was unable to attend, he felt that on balance there were no benefits to the area that outweighed the inconvenience to residents. He also took note of the consultations and for this reason objected to the application. Councillor Stevens also spoke against the application as there was no business case and nothing in it for local residents. He had concerns about the increased helicopter movements as the type of visitor who would be using the Airport at this time was very unlikely to use public transport. 27 Residents Associations were against the application and

only 6 were in favour and he had not been convinced to change his mind from his previous stance.

Councillor Noad referred to the Director of Renewal & Recreation's comment that there could be up to 140 extra flights per week and he suspected that many of these would be helicopter movements but no information was available from BHAL on this. Large parts of the Borough were already under the flight paths for Heathrow and Gatwick airports and with the added proposals by BHAL during the peak summer holiday period he felt the noise disturbance would be unacceptable and therefore objected to the application. He agreed with Councillor Smith on the issue of the lease but any change would have to be carefully managed.

The Chairman reiterated previous comments about the long term issues concerning BHAL and that it was completely unreasonable not to expect any future changes to the lease. However, in the light of questions raised and residents concerns about the environmental impact and noise issues etc the Council would look to work with the Airport to make improvements for the benefit of all. The Airport had an important role and the Council wanted to see a viable sustainable Airport which would generate growth in jobs and income. Councillor Carr had not been concerned about the issue of a precedent and like Councillor Smith felt there were areas that could be agreed on in the future. Concerning this application however, he still had issues and was not convinced there was a need for a variation to the lease. Councillor Carr was of the view that there was enough spare capacity within the present operating hours to accommodate the additional flights. He did not consider that a sufficient business case had been put forward as there would only be a marginal benefit in income. He hoped that that the Council and the Airport could work together proactively in the future regardless of the decision made that evening.

On a vote the Executive unanimously –

RESOLVED that the revised application by Biggin Hill Airport Limited for a temporary variation of the operating hours during the 2012 Olympic and Paralympic Games be rejected.

Chairman

The Meeting ended at 8.10 pm

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Minute Annex

EXECUTIVE MEETING

8TH AUGUST 2011

ORAL QUESTION BY A MEMBER OF THE COUNCIL

1. From Councillor Tony Owen of the Portfolio Holder for Children and Young People

What are the short, medium and long term plans for the location of the Relate facility currently above Bromley Valley Gymnastics Centre in Chipperfield Road?

(If precise dates can be given for the short term this will be appreciated)

Reply:

The Portfolio Holder responded that the Councillor had used the term 'Relate facility' which should more appropriately be 'Respite service' which specifically catered for young people at risk of or who had been excluded from secondary school. The Respite provision forms part of the Borough's strategy to support schools in managing pupils with challenging behaviour. It makes provision for children at risk of exclusion from secondary school and those Looked-After Children who are temporarily without a school place. Placement is usually for 6 - 12 weeks during which there is assessment and a full educational programme delivered – following which the students should be ready to return to their mainstream schools, for those whose behaviour is too severe, assessment may lead to placement in the Pupil Referral Service or, if Statemented, to Burwood school. The Respite provision has capacity for up to 30 young people.

The setting up of respite provision was agreed by me as Portfolio Holder in June 2008 and was initially located in two Youth Centres. However, evaluation of the provision indicated that the accommodation was not conducive to ensuring an appropriate education. A location with classroom facilities to provide a more educational setting was required and Officers considered options to provide this.

In May 2009, a bid by Bromley for capital funding from DfE, to co-locate services was successful and was agreed by me as Portfolio Holder. It was anticipated that this funding would have enabled the Respite provision to be located on the Grovelands campus. However, the funding proved insufficient to make these buildings fit and a temporary solution was found in the former Walsingham School site on Chipperfield Road.

The risk assessment for this site took into account the fact that the Bromley Valley Gym Club does not use the site at the same time as the children, i.e. Respite students attend between 9.30 am and 2.30 pm and the Gymnastics Club runs from 3pm onwards.

However, the Respite Services current location is an interim arrangement. Officers are considering long-term alternative solutions. These include possible use of a suitably adapted Youth Centre or other Council properties suitably adapted for educational use; externalising the service to an outside provider or indeed ceasing to provide Respite services completely. The cost of this service is paid through the Dedicated Schools Grant and not the Council.

Supplementary Question:

Councillor Owen said that it was made clear that it was not just from 3pm as the facilities were used from 9am onward for 'Gym tots' and under 4 year olds.

He asked why it was thought sensible to locate children above Bromley Valley Gymnastics Club who have been excluded from school, have severe behavioural problems and are normally kept in a gated compound with high metal fencing such as the pupil referral unit?

Why were the children not moved the moment serious incidents started to occur including fence posts thrown from Gym 2 roof and furniture thrown from the second floor balcony with a severe risk of maiming parents and pre school gymnasts?

Why does Bromley Council seem incapable of sticking to leases it has signed, in this case promising Bromley Valley Gymnastics Club quiet enjoyment of the site?

Does the Council not realise that it could be causing the financial ruin of a gymnastics facility that has produced four gold medal winning world champions and has display teams that promote the Bromley name all around the world?

Can I ask the Portfolio Holder to remove the pupils from the site before it is due to reopen? The situation is totally intolerable.

Reply:

Councillor Noad replied that he had seen the list of incidents recorded by Bromley Valley Gym Club but he was told by the Officers that only a small number of these had been previously notified to the CYP Department or the Respite Centre. The CYP Behaviour Service was initially made aware of incidents on 11th May 2011 when the damage to windows in the Gym was registered (this damage was done on the Bank Holiday Royal Wedding Friday) and reported over the holiday weekend. However, less than 25% of the listed incidents have been reported to CYP officers and they can only deal with them if informed.

The Director and I will work with the site users to mitigate the situation and find an acceptable outcome for all concerned.

**EXECUTIVE MEETING
8TH AUGUST 2011**

ORAL QUESTIONS BY MEMBERS OF THE PUBLIC

1. From Mr Jonathan Wallace of the Chairman of the Executive

As some Councillors have expressed doubts as to the need for extra capacity during the Olympics, has everyone involved in this decision making process familiarised themselves with the Atkins report, which details the large amount of forecast traffic levels for the event.

Reply:

Councillor Carr replied that Officers had met with the Department of Transport who commissioned the Atkins Report and he had also recently read the report. It is clear that the Atkins Report did not set policy but was helpful to the Department in understanding the potential scale of air traffic linked to the Olympics. The data included in their report was based on possible forecast growth and although Biggin Hill was referred to in the report it was purely informative and did not constitute Government policy advice. I should add that a summary of these forecasts and BHAL's capacity to handle extra movements was referred to in the report to the Executive on 21st March, page 3, para 3.3.

Mr Wallace did not have a supplementary question.

2. From Mr Jonathan Wallace of the Chairman of the Executive

Concerns have been raised regarding security from the possible increased movements, are the councillors aware of the DfT airspace restrictions which will be in place over all of Bromley for the event, which will create a much more secure and known traffic environment.

Reply:

Councillor Carr responded that Security was, of course, of paramount importance and he was advised of security-related developments, including the recent Airport/Allocation Regulation 2006 which requires all air movements in the London area to be authorised over this period.

Supplementary Question:

Mr Wallace commented that in the light of the tighter air space restrictions did the Chairman consider that the extra hours requested by BHAL for the Olympic period would result in an increased risk.

Reply:

Councillor Carr said that he was not technically qualified to answer the question but accepted that the more movements taking place increased the possibility of a problem. However, he noted the point being made by Mr Wallace.

3. From Mr Jonathan Wallace of the Chairman of the Executive

Doubt was raised at previous Executive meetings over the necessity of 8am opening on weekends, are the councillors aware that forecast peak demand between 0700-0900 exceeds current capacity at London airports. This was published at the CAA airports briefing and in the Atkins report.

Reply:

Councillor Carr replied that forecasts of demands were only forecasts and the DFT has advised us that adequate capacity should be available to accommodate demand over the Olympic period regardless of any decision taken on the BHAL proposals this evening.

Mr Wallace did not have a supplementary question.

4. From Dr Harry Ivey of the Chairman of the Executive

Will the Council be submitting comments to Government in response to:
'Developing a Sustainable Framework for UK Aviation: Scoping Document'
[published in March this year]
- concerning revised national policies on limiting noise, pollution, climate change impact and many other areas of serious concern to local residents?

Reply:

Councillor Carr responded that the Council was currently carefully considering the contents and implications (if any) for the Borough of the Department of Transport publication: 'Developing a Sustainable Framework for UK Aviation: Scoping Document'. This is the first stage in replacing existing Government aviation policy originally published in 2003. The aim of the scoping document is to define the debate as the Government develops its long term policy for UK Aviation. It will be followed in due course by a draft policy framework, which will also be consulted upon, before any framework is finally adopted. The deadline for responding to this scoping document is 30th September 2011 and it was likely the Council would be submitting some kind of response.

Supplementary Question:

Dr Ivey commented that as the Borough contained an airport he thought it would be of importance for the Council to submit comments and he hoped

that there would be full consultation with local residents. He asked how the Council could consider any changes in the lease at this stage, even on a temporary basis, before the government deadline for introduction of a new Aviation Policy in March 2013.

Reply:

Councillor Carr replied that the current application under consideration was for temporary changes any changes to the lease can only be determined by the Council. Any applications beyond 2012 would be under different criteria.

5. From Dr Harry Ivey of the Chairman of the Executive

Should frequent helicopter flights be introduced between Biggin Hill Airport and Ebbsfleet (which is near the Olympics site) - would the Council notify all Bromley residents prior to the Olympics about the seriously increased and more widespread helicopter flights they would suffer?

Reply:

Councillor Carr considered this was an important issue and said the Council will ask BHAL to inform residents of any helicopter services between the airport and Ebbsfleet International Passenger Station, if they occur. The Council is seeking clarification from BHAL on what, if any, helicopter service is planned. We have been informed that BHAL itself would not be seeking to provide such a service.

Supplementary Question:

Dr Ivey thanked the Chairman for his reply and went on to say that because there would be more noisy helicopter traffic during the Olympic period – would the increased use of helicopters be brought to the attention of all Bromley residents.

Reply:

Councillor Carr responded that it was feasible that there could be an increase in helicopter flights but he felt this issue was a 'red herring' as the Airport currently had sufficient capacity within their existing agreed flying hours.

6. From Dr Harry Ivey of the Chairman of the Executive

The Officers' Report [RES 11073] states at page 7 that: '*a large number of those supporting the proposal have responded using the leaflet or other pro-forma letters*' [BHAL leaflet had a 'cut-off' section]. Will the Council state the number of respondents using the BHAL leaflet 'cut-off' section and, separately, the number using pro-forma letters?

Reply:

Councillor Carr advised that the Council had received 387 'cut off' responses and an additional 124 responses using pro-forma responses or letters.

Supplementary Question:

Dr Ivey asked why the officers' report had omitted the fact that the public consultation had included a number of responses from people living outside of the Borough with some even living outside of the Country. He stated that of those living in the Borough 72% were against the proposal and only 28% in favour – 3 to 1 against.

Reply:

Councillor Carr responded that the figures had not been broken down to show the percentages of those living inside or outside of the Borough in the earlier report and therefore had not been included in this latest report.

7. From Jennifer Munro, Managing Director, BHAL of the Chairman of the Executive

Following confirmation of our position on the question of precedent at the Council meeting on 21st March and in numerous forms since then, is the Leader satisfied that Biggin Hill Airport Ltd would have no intention of using permission granted in respect of this request, as a precedent for any future consideration of operating conditions?

Reply:

Councillor Carr stated that whilst I have no doubt that there maybe no intention on your part of using permission granted as a precedent, it is clearly impossible for me to know what may or may not transpire in the future. Just as I am sure you would understand that I would, indeed could not tie the hands of any successor, and I am sure the same applies to you.

Supplementary Question:

Ms Munro asked whether legal confirmation had been obtained on the question of setting a legal precedent and if this was now available?

Reply:

Councillor Carr advised that this would be discussed later in the formal debate.
