

Decision Maker: Resources Portfolio Holder

Date: For pre-decision scrutiny by the Executive and Resources PDS
Committee on 25th February 2010

Decision Type: Non-Urgent Executive Key

Title: **LANDLORD'S CONSENT FOR DEVELOPMENT AT BIGGIN
HILL AIRPORT**

Contact Officer: Jane Pocknall, Head of Valuation & Estates
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Chief Officer: Director of Resources

Ward: Biggin Hill, Darwin, Farnborough and Crofton and Petts Wood and Knoll

1. Reason for report

Under the terms of the Lease granted to Biggin Hill Airport Limited (BHAL), the Council's consent as Landlord is required for the construction of an additional apron area, replacement car parking and extension of security fence adjacent to hangar 503 to the south west of East Camp.

2. **RECOMMENDATION(S)**

The PDS Committee is asked to scrutinise the proposed decision by the Resources Portfolio Holder and

The Resources Portfolio Holder is recommended to grant Landlord's Consent for the proposed development on terms to be agreed by the Chief Property Officer.

Corporate Policy

1. Policy Status: Existing policy.
 2. BBB Priority: Excellent Council. Quality Environment
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Financial

1. Cost of proposal: No cost
 2. Ongoing costs: N/A.
 3. Budget head/performance centre: N/A
 4. Total current budget for this head: £N/A
 5. Source of funding: N/A
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Staff

1. Number of staff (current and additional): N/A
 2. If from existing staff resources, number of staff hours: N/A
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Legal

1. Legal Requirement: No statutory requirement or Government guidance. Contractual provisions apply
 2. Call-in: Call-in is applicable
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Approx. 5/7 staff & 3/4 customers per day
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Yes.
2. Summary of Ward Councillors comments:

3. COMMENTARY

Additional Apron Area, Replacement Car Parking and Extension of Security Fence adjacent to Hangar 503 to the South West of East Camp. (See attached plans)

- 3.1 BHAL has applied for Landlord's Consent to construct an additional apron area of 245 m² and a replacement parking area of 432 m². adjacent to the existing apron in front of Hangar 503.
- 3.2 The apron will be for aircraft associated with Hangar 503 and is needed to ensure improved utilisation of that hangar and to avoid aircraft needing to park on the taxiway. The current lack of aircraft parking facilities close to Hangar 503 means that when aircraft are retrieved out of the hangar, it is necessary to park them aircraft temporarily on the live taxiway system. The new apron would improve and facilitate safety in accordance with CAA legislation and make it easier for air traffic controllers to manage the movement of aircraft on the taxiway system.
- 3.3 The replacement car parking will be located to the south west of the aircraft overhang area and constructed in concrete. The need for the car park arises from the need to prevent cars which are not essential operational vehicles accessing the airside area, and therefore improve safety and security at the airport. Currently, people with business at the hangar park in front of the hangar on the existing apron. A pedestrian walkway (included in the car park area calculation) will run from the car park to the additional apron area, with an airside/landside pedestrian gate on the north west corner of the car park.
- 3.4 Airside security fencing will be erected around the perimeter of the car park and along the pedestrian walkway to the hangar. The fence will be an extension of the existing perimeter fencing and will be 2m high.
- 3.5 Hangar 503 was built about 20 years ago and the Tree Preservation Order covering a large area of surrounding land including Cudham Lodge Woods was already in place when the hangar was erected. Approximately 40 trees will need to be felled to implement this proposal (19 of these trees are outside the area covered by the TPO). Some additional trees not within the proposal site may need to be removed as there may be root damage from adjacent works. Where trees beyond the affected area can be protected, a construction exclusion zone with physical barriers will be put in place. The close proximity of the trees to the hangar currently represents a foreign object damage risk to aircraft moving to and from the taxiway onto the apron in front of the hangar and consequently increases the risk of ingestion of debris by the aircraft engines.
- 3.6 The Chief Planner has advised that the proposed development constitutes Permitted Development under the Town and Country Planning (General Permitted Development) Order 1995 and as such does not require planning permission. It has also been accepted that BHAL, as a statutory undertaker, is entitled to carry out works to protected trees, including felling them, where the trees are situated on operational land, and either the works on the land cannot otherwise be carried out, or the works are for the purpose of securing safety in the operation of the undertaking. It was agreed in this case that BHAL was entitled to remove a number of trees to allow the 'permitted development' works to proceed.

4. POLICY IMPLICATIONS

The Resources Best Value Portfolio Plan's aims include being a Council that manages its assets well.

5. FINANCIAL IMPLICATIONS

- 5.1 The additional apron and replacement car parking will not qualify for redevelopment income under Clause 5.23 of the Lease as it is operational development.
- 5.2 The Council is entitled to recover its reasonable costs of giving Landlord’s Consent to the proposed development.

6. LEGAL IMPLICATIONS

- 6.1 Clause 5.5.2.2 of the Council’s Lease to BHAL stipulates that the Council’s consent is required for the erection of any new building or construction at the airport, such consent not to be unreasonably withheld or delayed.
- 6.2 The Council, as Landlord, may require BHAL to enter into such covenants as may reasonably be required in connection with the execution of the development work. However, the Lease does not enable the Council as Landlord to insert conditions in a Licence for Consent limiting the use of the development since the use of the airport generally is already controlled by the Lease and can only be altered by agreement.
- 6.3 The Council, as Landlord, can only withhold consent to the carrying out of alterations under the Lease where it can reasonably maintain that the new building or development would be detrimental to its property interests or conflict with the proper management of its land. It is not possible to argue that the construction and reasonable use of the proposed development outlined in the report would be so detrimental.
- 6.4 There is no provision for Arbitration under the terms of the Lease if the Council refuses consent to any proposed development. However, if the Council were to refuse to give Landlord’s consent to the proposed development the tenant could opt to carry out the relevant work without Landlord’s Consent leaving the Council to take such action as it considers appropriate.

Non-Applicable Sections:	Personnel Implications
Background Documents: (Access via Contact Officer)	[Title of document and date]