

**EXTRAORDINARY DEVELOPMENT CONTROL AND LICENSING
COMMITTEE held at COUNCIL OFFICES HIGH STREET GREAT DUNMOW
at 10.00am on 9 JANUARY 2003**

Present:- Councillor R B Tyler – Chairman.
Councillors E C Abrahams, W F Bowker, Mrs C A Cant,
Mrs M A Caton, Mrs J F Cheetham, R A E Clifford, Mrs C M Dean,
Mrs E J Godwin, R D Green, P G F Lewis, Mrs J I Loughlin,
D M Miller and A R Thawley.

Officers in attendance:- W Cockerell, Mrs M Cox, R Harborough, J Mitchell,
J Pine, B D Perkins and M Perry.

Also present at the invitation of the Chairman:- Councillors R J Copping,
A Dean, R A Merrion and R C Smith.

DCL133 DECLARATIONS OF INTEREST

Councillors W F Bowker, Mrs C A Cant, Mrs J F Cheetham, Mrs C M Dean, Mrs E J Godwin, P G F Lewis, Mrs J I Loughlin and A R Thawley declared non-prejudicial interests as members of Stop Stansted Expansion (SSE). Councillor Mrs Cheetham also declared a non-prejudicial interest as a member of NWEPPHA.

DCL134 APPLICATION 1000/01/OP STANSTED AIRPORT – DRAFT SECTION 106 AGREEMENT

The draft Section 106 Agreement had been considered by the Committee at its meeting on 16 December 2002. At that time, Members had asked that the matter be deferred to allow them to consider the document in detail, to ask questions of the planning officers, and to arrange a special meeting of the Committee. That meeting had also resolved that the Head of Planning and Building Surveying, in consultation with the Chairman of the Committee, be authorised to continue negotiations with Stansted Airport Limited in relation to night flight movements.

This meeting had been held on 20 December 2002 and it was clear that as the nightly noise quotas and flight restrictions were imposed by the DfT, it was not possible to seek a reduction in night flights through the mechanisms available in determining the application. STAL had contended that if it were to accept a lower level it would face a legal challenge of discrimination from within the industry. STAL would not agree to reducing the quotas but did commit to bringing its obligation “not to seek to increase” night flights to the Secretary of State’s attention during the consultation process on the new night flights regime and for the duration of the agreement.

The Committee then considered a report on the issues raised by Members since the meeting on 16 December, up to and including 6 January 2003, together with an officer’s comment on each point raised.

(i) General points

The Head of Legal Services confirmed that the terms used in the agreement such as 'reasonable endeavours' and 'best endeavours' were sufficiently certain and enforceable. He went on to explain how the agreement would be enforceable through the Courts. In answer to Members' questions, he explained that the agreement would continue to be in effect until replaced by another agreement or if not, for up to 80 years. He also confirmed that the obligations related to the land and would apply if the land was sold or if there was a transfer to a different company.

(ii) The night and shoulder periods

This had been the main area of Members' concern. The Head of Planning and Building Surveying confirmed that there was no scope for a reduction, or a change in the regime through the scope of this planning application. Further consultation on night flight movements would be taking place later in the year, at which time the Council would have the opportunity to put forward its case robustly.

Councillor Clifford voiced the opinion of a number of Members that STAL should amend its pricing regime so as to discourage night time and shoulder period flights. He was informed that currently there was no differential charging by time of day. There was a reduction in charges for quieter chapter 3 aircraft and a surcharge for chapter 3 High, but some Members argued that the noise level was irrelevant; it was the number of aircraft that interrupted sleep. Officers advised that as there was no limit on shoulder time activity imposed by the Government. It would be unlawful for STAL to impose restrictions for this period. Officers pointed out that in the agreement there was an obligation for STAL to use reasonable endeavours to reduce aircraft noise by introducing additional incentives and controls when it was possible and lawful to do so and in particular to review charges. Members requested that the review of charges take into account the night time and shoulder periods.

The Committee then discussed the Member suggestion that the insulation of schools or community buildings suffering from aircraft related noise should be financed by STAL and not just by using a surplus of funds. STAL had indicated that they would not agree to this. There was currently no statutory scheme for community buildings and Councillor Mrs Cheetham asked that representations be made to the Government about the inadequacy of this system. Members queried who would be responsible if the school become unusable, through excessive noise The Head of Planning and Building Surveying said that the Community Fund could be used for schools if that was the wish of the Fund Trustees.

Members discussed the obligation relating to the use of reverse thrust and felt it would be useful if the monitoring information were available to this Council.

(iii) Rail Infrastructure

Members had raised concerns at the timing of the implementation of the improvement works. Officers clarified that the agreement prevented any development taking place until a binding agreement had been signed between

the applicants and the SRA. It was for the SRA to set the appropriate dates and trigger points for the necessary developments. This would include the extension of platforms at Stansted Mountfitchet and Broxbourne before the twelve car trains were generally required. Some Members had asked for target dates for the implementation of the works, but officers did not consider this to be the appropriate approach. The increase in passengers would be carefully monitored by the SRA and STAL had already made a commitment to provide the infrastructure.

(iv) Ground Noise

Councillor Smith informed the meeting that he had measured the noise generated during recent engine testing at the airport. The levels were way above those considered acceptable by the Government. The Principal Environmental Services Officer detailed the ground run facility that was to be provided no later than September 2004. This would mirror the existing facility and provide facilities under most wind conditions. STAL had also agreed to no open field testing other than in exceptional circumstances. Councillor Smith then asked that the obligation should be strengthened in respect of the operation of APUs. He said there was no need for an aircraft to use an APU for up to 60 minutes as set out in the agreement, and referred to Heathrow Airport where there was a time limit on this use.

(v) Air quality

With regards to air quality, Councillor Dean questioned whether the PM2.5 pollutant should be monitored. Councillor Mrs Loughlin considered that, with the expansion of the airport, there should be an increase in the frequency of monitoring.

(vi) Surface access to the airport

The Committee discussed the proposed 15 minute waiting limit in the pickup zone. Councillor Mrs Caton argued that the drop off zone encouraged people to drive to the airport and was contrary to the objective of encouraging a greater use of public transport. However, Mrs Councillor Cheetham said that the increase in the waiting period from 10 to 15 minutes might stop the problem of people parking on local roads whilst waiting for passengers to arrive. Members were advised that this condition had arisen from a request during local consultation and this clause would prevent the waiting time exceeding 15 minutes.

(vii) Economic Performance

Members discussed the Council's involvement in the Stansted Airport Business Forum, and agreed that as there was much demand on staff time, it might be appropriate for there to be a Member representative on the forum. Officers would investigate this.

(viii) Community Fund

Members were then given further details concerning the administration of the community fund. It was the intention that STAL would establish a charitable

trust to administer the fund. The trustees would comprise two representatives nominated by STAL (only one employee of the company), two local authority representatives, one from the Stansted Operating Committee, and one from the Stansted Airport Consultative Committee. STAL had committed £700,000 to the fund which would be paid in tranches of £100,000. The fund would also receive the penalties from off-track flying. The fund could be used for anything that would be seen to benefit the district. Councillor Mrs Cheetham commented that none of the trustees would necessarily include a representative of a local community organisation.

DCL135

THE LEGAL AGREEMENT

The Head of Legal Services took the Committee through the draft agreement. The opening eight pages comprised 13 sections on procedural and legal matters. There then followed five schedules. The first three set out the permission, the planning application and the title. The fourth and fifth schedules set out the obligations entered into by STAL. The Committee considered these obligations and made comments and/or amendments on the following obligations

1.1 To carry out consultation on the 8-15 mppa noise insulation scheme for the Department for Transport as soon as possible.

Councillor Mrs Cheetham was assured that the Council would be consulted on the draft scheme.

1.5 Not to seek relaxation in the current 2001/02 DFT night time flight restrictions for the night period 2300-0659 and for the night quota period 2330-0559.

An additional obligation to be included that STAL agrees to bring its agreement not to seek an increase in night flight quota points to the attention of the DfT during the night restriction consultation process and for the duration of the agreement.

1.6 To use reasonable endeavours to ensure that no QC4 movements will be scheduled during the night quota period 2330-0559.

To amend 7.1 of the agreement to specify maximum number of aircraft movements as 5,000 in the winter season and 7,000 in the summer season.

2.2 Maintain and enhance existing voluntary incentives and controls to reduce aircraft related noise and to use reasonable endeavours to reduce aircraft noise further by examining and where possible and appropriate introducing additional incentives and controls. This will include a review of the charging regime with the objective of reinforcing incentives to reduce the use of noisier aircraft by April 2004.

In para 9 of the legal agreement, to include the requirement to review the voluntary incentives and controls 'in both day and night time periods'.

2.5 To ensure that, except in exceptional circumstances, no APUs to be operated on the echo-apron between 2330 and 0600 except for 10 minutes by any aircraft arriving on stand before 2330 at night and except for up to 60 minutes by any aircraft departing after 0600 in the early morning. To take all reasonable steps to prioritise 100% service ability of FEGP provision to all echo-apron stands to facilitate compliance with this obligation.

Councillor Mrs Godwin thought there might be room for further negotiation on the 'up to 60 minutes' operation of the APU. However, officers stated there would be no purpose in going back to STAL on this point. This was an area that might be addressed as part of the Ground Noise Management Strategy, which was to be undertaken by STAL in consultation with a number of authorities. An informative note would be included at the end of the document asking STAL to use its best endeavours to encourage operators to use the APUs for less than 60 minutes. APU use monitoring records would be made available to the Council.

To have completed an odour study by 30 September 2004 and to implement any reasonable, appropriate, and proportionate measures to mitigate odour emissions directly attributable to Stansted Airport.

Legal agreement 5.2 – the study shall be undertaken by two years from the date of grant.

To assist the strategic rail authority, Railtrack Plc, and the operator of the Stansted Airport train services in the planning of long term development of enhancement of the West Anglia Railway (WARM enhancements) and to contribute toward the cost of studies commissioned by the SRA directly associated with such enhancements that are relevant.

An informative note would be included at the end of the document asking STAL to lobby the SRA for early implementation of the West Anglia Route Modernisation (Enhancements) project.

The Head of Planning and Building Surveying then explained the review and reporting arrangements in respect of the agreement. There would be an annual sustainability report which would consider the progress of all aspects of the agreement. This report would be independently externally audited. Additionally there would be two further studies commissioned in 2005 and 2009 to assess the impact of the development and reviewing the forecast effects of the development.

Councillor Lewis said that living in Hatfield Heath, he had personal experience of the impact of the airport. He had spent hours studying the paperwork and had listened to all the arguments. Officers and Members had achieved much in improving the agreement. His main concerns were those matters controlled by the Government and outside the control of STAL and it was with some regret that he felt he should approve the agreement. He moved and it was seconded by Councillor Green, that

“the draft Legal Agreement as set out in the report, and as amended at this meeting, be approved.”

Councillor Mrs Cheetham asked that a strongly worded letter be sent to the Government outlining what Members and local residents had asked for, and what it had been possible to achieve under current legislation. Councillor Clifford said that ever since the first application for the airport had been approved, he had accepted that it would be very difficult to stop further expansion. However, he did not consider the terms of the Section 106 Agreement to be sufficiently strong and he would therefore abstain from voting.

Councillor Thawley considered that the Council had now achieved all that it could in respect of the agreement and would support the motion. He had spent some time studying the report of the Heathrow Terminal 5 Inquiry and felt that more community benefits could be achieved through a locally negotiated agreement than through a public Inquiry. Councillor Mrs Caton said this decision was very difficult. She still questioned why STAL could not offer more than the Government allowed.

Councillor Mrs Godwin was still not satisfied with the agreement in respect of the shoulder period, ground noise, APUs and rail services. She moved and it was seconded by Councillor Mrs Loughlin, that

“Approval of the agreement be deferred for further negotiation with STAL.” She hoped that a small member and officer group might be able to achieve further concessions on the outstanding matters of concern. Councillor Copping agreed with this amendment stating that the district was under its greatest environmental threat and the Council should ask the airport to go that extra inch.

Councillor Mrs Caton asked officers to comment on the amendment to defer the decision. Officers advised that no further negotiation would be possible. If the matter was deferred, STAL would most likely commence the appeal process for non-determination. An inquiry would then be held on the whole planning application. Councillor Mrs Loughlin felt that the committee owed it to the people of Uttlesford to defer the application for a few more weeks, whilst other Members considered that officers had negotiated as far as they could.

The amendment was then put to the vote. Councillor Clifford asked that a recorded vote be taken. The amendment was lost by eight votes to six.

For the amendment

E C Abrahams
W F Bowker
Mrs M A Caton
Mrs C A Cant
Mrs E J Godwin
Mrs J I Loughlin

Against the amendment

Mrs J F Cheetham
Mrs C M Dean
R D Green
P G F Lewis
D M Miller
A R Thawley
R B Tyler
R A E Clifford

The Motion proposed by Councillor Lewis was then put to the vote. Councillor Clifford requested that a recorded vote be taken.

RESOLVED that the draft Section 106 Agreement as set out in the report, and amended at the meeting be approved.

For the Motion

Mrs J F Cheetham
R D Green
D M Miller
A R Thawley
R B Tyler
P G F Lewis

Against the Motion

E C Abrahams
W F Bowker
Mrs E J Godwin
Mrs J I Loughlin
Mrs M A Caton

Abstain

Mrs C A Cant
Mrs C M Dean
R A E Clifford

It was further

RESOLVED that representations be made to the Government on the matters of concern raised during the meeting and a draft be submitted to a future meeting of the Committee.

Members were aware of the tremendous amount of work that had been undertaken by officers during the preparation of this agreement and asked that their appreciation be recorded. The Chairman also commended Members for their efforts in determining this application.

The meeting ended at 4.20 pm.