

Note on points raised by SSE in correspondence to the Leader dated 12 April 2019

1. It is known that the letter was copied to the other group leaders and to the Chief Executive, but officers are not aware if it has had a wider circulation amongst Members. This note sets out officers' comments on relevant extracts.
 - (i) "The determination of the Planning Application on 14 November 2018 was followed, five weeks later (17 December), by the publication of the Department for Transport's long awaited Green Paper, **"Aviation 2050: The future of UK aviation"**. Amongst many other policy proposals to enhance protection for local communities and the environment, the Green Paper advises of the Government's intention *"to extend the noise insulation policy threshold beyond the current 63dB LAeq 16hr contour to 60dB LAeq 16hr"*. The proposed Stansted 'SIGS' scheme, as defined in the draft S.106, is based on a 63dBA threshold and so would not meet the requirements of the new policy threshold for fully funded sound insulation. By contrast the new Heathrow scheme is based on fully funding sound insulation for homes within the 60dBA threshold and is therefore compliant."

Officer comment:

2. The Government published "Aviation 2050" in December but this is a consultation document about future policy and the consultation period on most of the questions therein has been extended and subsists at this time. Little weight can therefore be attached to its content in determining current proposals, nor would it be reasonable to defer decisions until that Government policy is settled.
3. Significant weight was attached to the government interim guidance set out in its policy paper "Beyond the Horizon Aviation Strategy: Making best use of existing runways" in the recommendation to Planning Committee. This interim guidance has not been superseded and remains unchanged.
 - (ii) "On 21 November 2018 it emerged in correspondence that the Chairman of the Planning Committee, Councillor Alan Mills – whose (additional) casting vote was the determining factor at the Committee's meeting on 14 November 2018 – had not appreciated that approving the application would result in an additional 25,180 flights per annum compared to the number of flights achievable with a 35mppa cap. He had been led to believe that it would make no difference to the number of flights. It subsequently transpired, again, in correspondence provided to SSE, that at least one other member of the Planning Committee, Councillor Lesley Wells, was under the same misapprehension at the meeting on 14 November 2018. This is not to disparage Councillors Mills and Wells for their failure to understand all the implications of approving UTT/18/0460/FUL. As at the determination date for the application, there were 2,352 documents on the file, amounting to some 13,000 pages of evidence, analysis and commentary. By comparison, for the 2006 application (UTT/0717/06/FUL) there were fewer documents (1,854) and fewer pages (circa 11,000)."

Officer comment

4. This was included in the report to the Planning Committee on 14 November. The number of air transport movements now forecast at 35 mppa is not to be treated as a limit. The Secretary of State acknowledged in his 2008 decision that 264,000 ATMs were acceptable. STAL's current proposals do not seek to relax that limit.

(iii) "There is also the doctrine of **legitimate expectation** to be considered, whereby, in delegating the negotiation of the S.106 to officers, it is reasonable to expect that the level of mitigation negotiated **would not be substantially inferior** to the comparable level of mitigation provided to communities around other major UK airports. It is also reasonable to expect that all of the matters listed in the Committee Resolution would be addressed and that the proposed mitigation would be consistent with current and emerging Government policy."

Officer comment:

5. Each application for planning permission under the Town and Country Planning Act 1990 must be determined on its own particular merits. The CIL Regulations, Regulation 122(2)(a) requires that an obligation be necessary. This was not part of the delegation arrangements by the Committee to officers to undertake a nationwide comparison of other airport mitigation measures. Comparisons between the sound insulation grant schemes or schemes for community trusts for different airports are not relevant to this application in this district.
6. The effects of air transport movements are locally fact sensitive and will also vary from airport to airport self-evidently because of the number and type of air transport movements, the limits on such movements if any including night flying restrictions imposed by Government or through the planning process and the type of aircraft, and the character of areas under departure routes and glide paths, such as the degree of urbanisation. Individual planning decisions are fact sensitive and made on their particular merits.

(iv) "The long-awaited new World Health Organisation ("WHO") Environmental Noise Guidelines, although published on 22 October 2018, were completely overlooked in the Officers' Report and so it is not surprising that, as later learned in correspondence, the Planning Committee Chairman was completely unaware of them at the time of casting his decisive vote. The materiality of the new WHO Guidelines can hardly be understated since they set significantly lower thresholds than previously applied for the avoidance of adverse health impacts from environmental noise. Their importance was recognised, even before they were published, in UDC's December 2017 Scoping Opinion, as follows:

*"In the event that the World Health Organisation ("WHO")'s new evidence on the impacts of aviation noise is published before a determination to grant planning permission, the environmental statement assessment **must incorporate** this evidence (for example, by way of supplementary assessment)." [emphasis added]*

These new WHO Guidelines for the first time contain specific thresholds for aircraft community noise impacts and have been described as a landmark in seeking to protect community health. They clearly have a material bearing on the appropriate level of mitigation to be provided to safeguard the health of the local community affected by noise from Stansted Airport. At the very least, the Planning Committee should be given an opportunity to review the implications of the new WHO Guidelines – not having previously been given that opportunity – and to consider."

Officer comment:

7. The World Health Organisation Environmental Noise Guidelines published on 22 October 2018 were a matter put to the Planning Committee in SSE's presentation to members and in the officer's report. No weight can be attached to these guidelines as they are directed at Governments in preparing national policy on airports and aviation and not to local authorities. It is notable that the Airports 2050 consultation document questions the appropriateness of these guidelines.

(v) "One of the most controversial issues considered by the Planning Committee on 14 November 2018 was the assumption made by STAL that new aircraft, said to be 50% quieter, would quickly replace existing aircraft types thereby ensuring that the overall noise impacts would be kept within 'acceptable' levels. Members questioned – but to little avail – the plausibility of the claims made for the speed of the fleet replacement programme, with detailed evidence regarding the Ryanair fleet, noting that Ryanair accounts for about 80% of Stansted's passengers. The projected noise contours were based on Ryanair replacing the majority of its present fleet (all of which are Boeing 737-800s) with the "cleaner and quieter" Boeing 737-8 Max aircraft. Even the optimists would describe the original assumptions made with regard to the speed of the Ryanair fleet replacement programme as "challenging". In the light of the ongoing problems with B737-8 Max, these assumptions are now wholly implausible, and this was such a material component of the noise and air quality projections submitted by STAL in support of its application that there is a clear case for allowing the Planning Committee an opportunity to review the implications."

Officer comment:

8. In assessing air traffic effects, the Environmental Statement supporting STAL's planning application did make assumptions about aircraft fleet mix. It also included a sensitivity test that changes to the rate of new variant aircraft of up to 10% will be insignificant. Furthermore, the air noise contour condition is itself a measure that would safeguard against greater exposure to aircraft noise than predicted should the current problem with the airworthiness and passenger confidence in Boeing 737 8 MAX aircraft have a long lasting impact on fleet

mix.

9. Other points raised about enforcement for alleged breaches of planning control have no bearing on the application considered on 14 November. The expediency of enforcement action in any particular case depends on whether any planning harm has resulted from any breaches. For reasons in the knowledge of SSE because the matter was raised at a meeting of the Stansted Airport Consultative Committee, it is unlikely that there has actually been any breach of the air transport movements and other movements limits imposed by planning condition on the 2008 planning permission.