

Response of the London Borough of Richmond upon Thames to the 2004 Consultation on:-

'Night Flying Restrictions at Heathrow, Gatwick and Stansted',

Stage 1

Responses are mainly formed around the questions posed by the Consultation Paper, with additional points and questions taken from the main text.

The responses relate principally to Heathrow, which is the main airport affecting this authority's area.

Before answering the questions, we need to express our concern at how the consultation paper treats the 'Hatton' issue.

We are concerned that the consultation paper does not properly reflect the findings of the Grand Chamber of the European Court of Human Rights in respect of the Article 13 violation and misrepresents the current position. The consultation should make it plain that the 'Hatton' issue is not dead. Our residents continue to suffer from "the continuing administrative act" that from 1993 they have been the subject of much increased noise at night as a result of changes which it has been impossible to have fully heard in the courts. For example in the Richmond No. 1 case the court did not feel able to consider the issues of:

- sleep prevention nor of
- the health effects of noise, nor indeed
- the minus 9 EPNdB point

because of the limited scope of judicial review.

Issues such as these from the previous consultations accordingly need to be considered 'ab initio' and not simply taken for granted as the status quo, as the consultation paper does.

Although the minus 9 EPNdB point receives some mention it is understated in terms of the noise effect and does not refer to the conflict with the government's own noise standards.

Consultees should have been advised that it is open to them to challenge all aspects of the scheme that have previously been denied to them. (You will be aware that we regard this as a serious issue and are proceeding on a challenge to issues raised in the consultation paper.)

In essence the 'current' night flight problem started with the decrease in the length of the night quota period and thus an increase in the uncontrolled period - a key issue which in fact lies at the heart of the

problem. With the length of the night artificially reduced, it ensured an exacerbation of the problem of flights in the night period. We now have the night hours of 0600-0700 operating the 'Tactically enhanced arrival measures' (TEAM), with so many aircraft arriving in the night that they cannot even operate the 'alternation' system. This inevitably leads to extra stress for residents who are losing their sleep.

It is clear that the 'Hatton' issues are still live and it is misleading of the consultation document to represent the case as otherwise, in references between 3.15 to 3.19.

We have some other general points to make:-

- The airport is not run solely for the convenience of the airlines and users, and a careful balance needs to be struck against the disproportionate *inconvenience* to many more people
- It is the Council's policy that night flights, 2300-0700, should be banned. At present the most rigorous controls only apply to the night quota period. Unless and until night flights can be justified, there should be a ban. It would make a start if scheduled arrivals were banned before 0530, with a phased elimination of flights during the night period and with tight controls on all that remain.
- An essential point, which underlines our response, is that we believe that the disturbance from flights at night is greater in its effect than can be estimated by numerical calculation, based on the QC 'noise quota' scheme, i.e. the disturbance is greater than the sum of the QC points.
- The evidence from our 'aircraft noiseline' is that there are always *new* people making complaints. It is not just the same people who complain time and again. It is understandable that some people should become weary of making complaints when they can hear no improvement and no prospect of any improvement. This does not mean that they are not just as affected and upset as if they still logged every disturbance.
- There should be higher fines for night flights which breach restrictions, and higher charges for aircraft landing or taking off at night.
- There should be pressure on the airlines to change their schedules. A huge percentage of early morning arrivals come from Hong Kong. Why is that still *necessary* when the Kai Tak airport - and its nighttime curfew limit - is no longer a constraint on Hong Kong and hence departures could leave later and not arrive at Heathrow as night flights.

- Although not part of this consultation, residents have other ongoing concerns about the increase in daytime flights, with the erosion of alternation due to the increased daytime use of TEAM (in order to clear the congested stacks) and also the worry about safety with the increasing numbers of movements overhead. In this context, night flights are a further burden on a population which is already stressed by daytime flights.
- The authority's response to the questions posed in the paper is designed to help inform but is made without prejudice to the authority's overall view that the consultation paper contains significant flaws which we are pursuing separately with the Department for Transport.

QUESTION 1. Are there any other matters that you think we should cover in this consultation in addition to those set out in paragraph 2.4 of this paper?

Response: As outlined above, the consultation should have included more in relation to the ongoing 'Hatton' case; flights in the shortened night; sleep prevention issues; health effect issues and more on the minus 9 EPNdB point.

The consultation should have included a justification for night flights, if they are to continue, but there was none. There was an opportunity to respond on this point following the request sent on behalf of the local authorities by the Local Authority Heathrow Air Noise Working Group on 27th August. Whilst the answers given were helpful in other contexts, the invitation to give an economic and social justification was not met. We therefore have no evidence of any benefits from the adverse effects being caused. Consequently, in our view, there should be no night flights unless there is first an adequate and convincing justification.

We are of the opinion that the Government could do very much more to put pressure on the airlines to reschedule their flights away from the night hours. We are aware of the response prepared by HACAN Clearskies and AEF, which shows, in their view, how some flights could be re-scheduled out of the night. We would like no night flying by scheduled flights unless, exceptionally, supported by the most rigorous justification, prior to phased elimination altogether.

Para 3.5 (no question) states that '*over time, aviation (must) pay its external costs*'.

Response:

We are concerned that the external costs should include for example that noise insulation should be provided over a much larger area than is currently the case, e.g. to include premises within the 90 SEL footprints for arrivals and departures. However, WHO identifies that sleep

disturbance could start at 45 L_{Amax} indoors, and accordingly there is a strong argument to insulate out to a 60 L_{Amax} footprint, i.e. an external SEL of somewhere around 70 SEL rather than a 90 SEL footprint. We would favour adopting this more precautionary criterion.

QUESTION 2. Do you have any comments on the assessments described in Annex B of the consultation document? (see paragraph 4.1)

Response:

We welcome the introduction of night noise contours. It was unfortunate that the results were presented in 5dBA bands starting at 50dBA. This meant these contours could not be used fully in conjunction with PPG 24. What was needed were the results in 3dBA bands starting at 48dBA. This is a major omission in the consultation paper, although it is acknowledged that these contours have now been supplied by CAA, to the Local Authority Heathrow Air Noise Working Group, on payment of a fee. It is our view that this information should have been available within the consultation process and without any fee.

Page 42 ciii) It seems inconsistent and disproportionate to allow flights below 2500 feet when landing westerly before 6a.m. but not till 7a.m. when easterly.

Page 47. We note the various exemptions for early arrivals that either do not count against the movement limit or do not count against either the noise quota or the movement limit. We believe that *all* movements should count against the movement and noise quotas. Even if some aircraft (for example perhaps in emergencies) were to remain exempt from the quotas, they should always still be counted within the annual night noise contours and the seasonal 'Noise Quota and Movement Limits – usage' reports, to act as a true year on year environmental impact indicator.

QUESTION 3. Do you have any comments on the presentation of the noise contours and other information in Annex C? (see paragraph 4.2 - 4.13)

Response:

As indicted above, we welcome the introduction of night noise contours, but with the issue mentioned regarding the presentation of the results. Directive 2002/30/EC requires that information in an assessment should be made available in L_{den} and L_{night} as a minimum, but it does not have to be limited to that. There is no constraint on how the information is to be presented so that e.g. L_{night} could be presented in 3dB steps. It is our view that the information being made available by DfT is unnecessarily limited. Furthermore, hour by hour contours for an average night would be very helpful, so as better to assess the impact, year on year.

It is our view that the LAeq contours do not adequately represent the noise impact of take-offs in Ealing, Whitton or similar locations. 'Worst mode' easterly and westerly maps would help resolve this issue and better enable the impact to be assessed. The maps in the consultation document do not enable this assessment (see also QUESTION 2).

A series of maps with a range of SEL footprints would also be useful, to get close to the impacts of individual aircraft. Time averaged noise contours, on their own, are really of little obvious use for residents or planners. We are not convinced that time averaged contours properly reflect the noise that people perceive. People are much more affected by individual flights or the effect of frequency from a cluster of bunched flights, which are not reflected in time averaged contours. This is as much a daytime issue as a night-time one, but the disturbance is much more acute at night.

Para 4.11 discusses the 90dBA SEL footprint, with the footprint areas given in Annex C pages 55/56. The contour plot in Annex G, page 86, only gives the footprint for *arrivals*. It would be useful to have the footprint for the take-offs also. It is appreciated that take-offs may fly anywhere within the NPR swathes, so the plot could be shown as e.g. a 95th percentile of flights, or perhaps the extremities of the flight paths actually flown.

Annex C page 57 says that the demand for runway capacity has exceeded the available supply for virtually all hours of the day and that the continued restrictions at night have constrained growth during the night. We welcome the constraint on growth at night, which is wholly and entirely appropriate and proportionate, and would not want the restrictions regime to be weakened in any way. We note that the noise quota *used* over the years has increased and that the quota available is now virtually fully used each season (with winter 02/03 exceeding the 100% for movements and noise quota, using the 'end of season flexibility arrangements'). Our concern is that the movements at night ought to be reducing. Our UDP states that there should be a ban on flights at night.

Page 61 Annex C indicates that the contours do not include the noise from dispensed aircraft. As indicated under Question 2, we think that *all* aircraft that flew in the relevant night period should be included in the contours, as a year on year record of the actual noise impact.

Chapter 5 (no question) indicates that the night restrictions review has happened every 'five or six' years. We wish to resist this incremental lengthening of the established period between consultations from the 5 years period. We do not accept the suggestion that the next regime should end in 2011, after 6 years. We wish that it should stay at no more than 5 years between reviews, with the understanding that we actually wish to see a phase out of night flights.

QUESTION 4. a) Do you have any comments or suggestions for environmental objectives and specific noise abatement objectives for each airport? (see paragraph 6.6)

Response: We welcome the concept of the development of environmental objectives and noise abatement objectives. We will want objectives that protect people from aircraft noise at night. The development of objectives must start from the position that the current noise levels in the 2300-0700 night period are unacceptable. There should then be no increase in movements and the aim should be to reduce the quota for any movements that can be justified

Current noise levels in the 6.5 hour night and the 8 hour night give rise to complaints from residents. Any objective should have an aim of driving down the noise levels from the current unsatisfactory levels and reducing the number of movements.

4b) If so, please state for each objective the base case indicator against which it should be assessed (see paragraph 6.7)

Response: The indicators we would wish to see, to monitor for night time disturbance, should include each of the following; the total number of movements; the total noise quota; the contour area and the population enclosed and the centres of population affected over both the 2300-0700 and 2330-0600 night periods. The contours should be for an average night in each season. In addition, SEL footprints for the typical aircraft types should be produced.

Although 6.7 mentions the Future of Air Transport White Paper, there is no mention that the White Paper proposes the amendment of Section 78 of the Civil Aviation Act 1982 so as to result in the abolition of the movement limit at night. It is in our view wholly misleading to the public to avoid all comment on this in the consultation paper and to fail to make the consequences plain to consultees, i.e. that it would permit an increase in movements at night.

We are disturbed by the conclusion in para 6.7 that the scheme would result in a growth in movements, even though it quotes that it would curb the growth in noise. We are far from convinced that the 'balance' between movements and noise quota is as straightforward as we are invited to believe. We therefore wish to resist any growth in both movements and noise. Present noise levels during the night period are already quite unacceptable, and should be reduced, not just to achieve a reduction in the growth of noise. We continue to pursue a phasing out of all night flights.

QUESTION 5. Are you content that we should retain the QC system for classifying aircraft? (see paragraph 7.4)

Response: We are content that the current arrangement includes a movement limit, but unhappy at any moves which would remove it. We have reservations about the system generally as it is based as it is on

the use of the flawed noise certificates and we have a lack of confidence in the minus 9 EPNdB arrangement (as discussed under Question 6b).

In spite of its limitations, we are aware that the QC system has been a useful year on year indicator, prior to the publication of night contours. We note that the noise climate at night has been getting worse, as indicated by the Table on p 58, over the years 1999 to 2003.

The ERCD 0205 report has demonstrated the inconsistencies in the ICAO certificate rating when compared against the true noise burden of aircraft at night. If the movement limit were to be removed from the scheme, we would expect an increase in the number of movements. There would be no need for a QC system if the movements at night were phased out.

We note the point made at para 7.7 that certain aircraft are noisier than their ICAO certificate, and therefore use up fewer QC points than they should, if rated by noise. Most significantly, these aircraft are flying during the Night Quota Period and many of them would not be permitted to fly at all in that period had they had a true QC rating. This can be seen from the monitoring results presented in ERCD Report 0205. This means that people are subject to far higher peaks of noise in the Night Quota Period than they should be. Para 7.7 identifies the Boeing 747-400 with Rolls Royce engines as QC/2 when it should be QC/4, and these aircraft are subject to a voluntary ban in the quota period. Even worse, ERCD Report 0205 indicates that some of these QC2 aircraft are actually QC8, in real noise terms. It is disturbing to note that there are a significant number of these aircraft flying in the night when, on the basis of the noise produced, there should be none. If the suggestion goes ahead, to convert the QC4 voluntary ban into an actual ban, this issue will repeat itself, with these QC4 aircraft being allowed in as QC2s, when they should not actually be flying at night at all. We comment elsewhere that the Government should find the means to prevent such disruptive planes from flying at night, whether or not the QC scheme is retained. We do not agree with the view that the Government can do nothing on this issue because of the European Directive.

QUESTION 6. Do you have any comments on the proposals to:

- a) remove the weight limit for jet aircraft able to qualify as exempt but, at the same time, to extend the QC system downwards by a further band to QC/0.25 (84 - 86.9 EPNdB)?

Response: Para 48 identifies a proposed new QC/0.25 band as being an incentive for airlines to use less noisy planes. This implies that if they are less noisy, airlines can fly more of them during the night quota period. But as the noise and *movement* quotas are virtually fully used at Heathrow, the concept of the QC/0.25 must be pre-empting the concept of abolishing the movement limit, as proposed in the Aviation White Paper (or alternatively to increase the limit so that it no longer acts as a limit, which would have the same effect as removing it). As Richmond and several other local authorities were instrumental in securing the

movement limit through the High Court Judicial Reviews, we would most strongly oppose any removal, or any increase, of the limit. We wish to resist an increase in aircraft movements and are not confident with the noise budget concept, so we therefore reject the concept of a QC/0.25 band as unhelpful.

7.16 Introduces the point that a QC/0.25 would be expected to act as an incentive for airlines to fly quieter aircraft, especially if there were an extension of the Night Quota Period. The question is then posed whether we think this proposal will be beneficial?

Response: There is no suggestion, in the stage 1 consultation document, as to what the proposed rules for the shoulder period might be, without which it is impossible to tell whether the proposal would be beneficial. The stage 1 introduction indicates that there will be further detail on these periods in stage 2. We know that the shoulder periods are already very busy. If all of the aircraft were replaced with quiet ones it would obviously be beneficial, as long as the numbers did not increase. The 0600-0700 period is already so busy that the TEAM scheme brings in aircraft to both runways at the same time. As this 0600-0700 period is part of the night, the high number of flights is clearly a most serious issue. We would certainly not want TEAM in the pre 0600 period.

Annex F para 50 discusses QC/0.25 and QC/0.125 bands and that small business jets would 'not cause significant additional disturbance'.

Response: The words 'significant additional' are very worrying. We do not wish to see *any* increase in noise, given that current levels are already quite unacceptable.

b) retain the minus 9 EPNdB adjustment for arrivals? Are you content?

Response: We understand how the minus 9 EPNdB adjustment is an attempt to make for a simplified and flexible QC system, with only one set of numbers to add up. It aims to achieve this by balancing the areas of noise exposure. Even if the -9 does balance up areas, it does not balance up populations, and so it is not the complete solution. By aiming to be apparently simple, the -9 may in fact be a devious move and of detriment to the community, as the -9 adjustment has the effect of underrating the annoyance effect from the greater frequency of arrivals, when compared with the lower frequency due to dispersion of takeoffs. People clearly distrust the -9 adjustment, consequently, unless more work can be done to address this issue, it would be better for there to be separate QC totals for arrivals and for departures. The whole concept needs further work before it can be accepted.

c) prohibit QC/4 aircraft from operating between 2330 hours and 0600 hours (see paragraphs 7.5-7.23)? We propose to prohibit QC/4 aircraft from operating between the hours of 2330 and 0600. Do you have any comments on this? Bear 7.23 in mind for 7.4 to 7.22.

Response: We wholeheartedly support the proposal to ban the QC/4 aircraft from 2330 to 0600. Clearly, we would like them banned from 2300-2330 and 0600-0700 also. As indicated above, this should include also planes of equivalent noise generation even if the QC rating (measured in ideal conditions) does not fully reflect the noise generated in landing and taking off at Heathrow (as per ERCD 0205).

QUESTION 7. Do you have any comments on:

a) the value of there being common arrangements at the three airports?

Response: The concept of a common classification of noise standards is a good common arrangement. Likewise, a common nighttime period has some merits. However, it is not reasonable or proportionate to permit a common level of activity that disregards the number of people affected.

Common arrangements are only supported if they are of benefit to people living around Heathrow, which has by far the largest population suffering from night noise. We would not wish to see a common arrangement that was to the detriment of residents, just for the sake of making a unified scheme. A proportionate arrangement would have additional safeguards, or a ban, at Heathrow.

b) retaining the same night quota period at the three airports (see paragraphs 8.1-8.11) 8.1. We would welcome your further views and will take them into account when we develop firm proposals for stage 2 of this consultation. (Section 8.4 invites airlines and other users to say what value they get from common arrangements, and invites comments from consultees also).

Response: As sleep loss affects all people, regardless of which airport they are near, it appears to make sense to have the same night quota periods at the 3 airports. However as indicated in the previous response the number of population affected by each airport must be a relevant factor in determining proportionate controls. We are also firmly of the view that a re-introduction should take place of later timings on Sunday mornings, especially for landings, as occurred for example before the 1993 changes.

QUESTION 8. (a) Points relating to density of population and ambient noise seem more germane to issues concerning the size of the noise quotas and the number of movements permitted, rather than to the length of the night quota period: do you disagree?

Response: We disagree. In our view, it is not appropriate to try to separate any of the functions that affect the impact of nights. If night flights could be justified, an assessment would have to be made of the impacts of those night flights and the appropriate controls that would need to be implemented. That assessment should take all the factors together rather than considering any in isolation.

(b) Are you aware of any reason why we should not take account of the comment in the WHO Guidelines that responses to aircraft noise are less likely to be influenced by ambient noise than are some other types of noise? (see paragraphs 8.12-8.13) 8.12 If you disagree, let us know why – re numbers, quotas and night quota period length. 8.13 We are minded to take this into account. Are you aware of any reason why we should not?

Response: The quote from WHO in Annex D makes the comment that *'noise events exceeding 45dBA should therefore be limited if possible. For sensitive people an even lower limit would be preferred.'* This comment is significant, as it is understood that the UK sleep studies deliberately avoided individuals who were 'sensitive' to noise. For that reason, the studies failed to evaluate the effect on a significant number of people. Furthermore, it was established at the T5 Inquiry that the studies did not properly take in to account any difficulty in getting to sleep, difficulty in getting back to sleep nor premature awakening. Therefore, by assuming a sleep disturbance threshold of 90 SEL, a large number of people are ignored who might be disturbed. We much prefer the WHO position by including sensitive people. It therefore seems that the 45 dB LAmax (or, in line with WHO, ideally lower than that) is a more suitable assessment threshold and the better standard to use to estimate areas and populations where sleep will be affected. This would equate to roughly a 70 SEL threshold (for external noise).

If there were an implication that the residents around Heathrow suffer less than others due to higher background noise, and so consequently they could accommodate more noise, we would clearly resist such an argument for an increase in noise, when we are looking for a reduction in noise. There are many parts of the authority's area with a very low ambient noise level at night.

QUESTION 9. Do you have any suggestions for further controls on movements during the night quota period if it is extended? (see paragraph 8.14 - 8.17)

Response: Yes. We would like controls over the full 2300-0700 night period but separated between the existing Night Quota Period and the 'shoulder' periods. This is because we are concerned that arrivals which currently land in the 0600-0700 period, could come in earlier. But we also want to avoid the increase that is occurring in the shoulder periods; hence that period should also be controlled. As there are already too many movements in these periods, we would wish to see a reduction in both noise quota and movements.

The frequency of flights is a major issue. We wish to see a control to limit excessive numbers of flights in any one hour. Five flights an hour is excessive at night, yet we have an extremely high frequency rate in the 0600-0700 'shoulder' period, which is of course still part of the night period.