



Cllr Colin Smith
Leader of the Council
London Borough of Bromley

22nd July 2022

By email to: colin.smith@bromley.gov.uk

Dear Councillor Smith,

AIRPORT CONSULTATIVE COMMITTEES

You may remember that, in our report dated October 2021 on the NAP Review, Flightpath Watch commented on the unreliability of recommendations made or accepted by the Biggin Hill Airport Consultative Committee (page 19).

Recently, the Department for Transport sent a letter to all the known ACCs asking for comments on the effectiveness of their activities. The Aviation Environment Federation was made aware and, after surveying its members, sent the attached reply to the Department for Transport. The result is not positive.

It also largely concurs with our observations about the Biggin Hill airport consultative committee.

Please refer to the government's guidelines for Airport Consultative Committees (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/979232/guidelines-airport-consultative-committees.pdf), particularly the "Principles" in section 2.

We find that:

1. Biggin Hill Airport Ltd (BHAL)'s ACC is not independent –
 - a) The chair is selected by the airport's owner, whilst government recommendations state that "The chair should not be closely identified with any sectional interest..." (item 3.2 of the guidelines). The previous chair was a partner in the firm of solicitors acting locally for BHAL, a pilot and partial owner of both an aircraft and a small grass airport in Kent; the current chair has a business located at the airport.
 - b) Moreover, we have evidence that at least one member was "sacked" for being in disagreement with the airport's owner.
2. BHAL's ACC is not representative of the community, with participants selected by the Airport's owner and the most affected parts of the borough (the ones at the North of the airport) not represented at all.

3. The members are not knowledgeable, either in aviation or legal terms, and are ill equipped to make comments and recommendations on many of the issues discussed – they just accept what BHAL tells them. Additionally, the representation by the London Borough of Bromley (LBB) as the Landlord is woefully poor and has never been found to correct wrong or false information provided by BHAL.
4. There is no specialist expertise provided. Whilst there is constant confirmation by Bickerdike Allen Partners that the average noise envelopes have not been breached (nor will they ever be, since they are based on an imperfect average measure, far worse than what we previously had in the Lease), there is no aviation or legal expert in attendance to help members. All the information is provided by BHAL and, as mentioned, the council's Airport Monitoring Officer (AMO) causes even more damage by not correcting obvious errors, thus giving the impression that the information provided is correct.
5. The information provided is not transparent, sometimes it is not even truthful.
6. The ACC is not Constructive and Effective – it seems that BHAL's ACC is only used to promote BHAL and takes no account of how the disruption to residents could be effectively reduced. The AMO has not been seen to help in any way.

Bromley Council, as the Landlord and a public body, is doing absolutely nothing to keep BHAL to the guidelines of the Department for Transport on consultative committees, in spite of the fact that co-operation (presumably correct and honest co-operation) is required in clause (g) of the Third Schedule of the Lease.

Importantly, recommendation 1.15 of the government guidelines, states:

1.15 Although the committees do not have any executive power, they should be holding airports to account by monitoring the implementation of commitments made by the airport and challenging their performance when necessary." It is distressing to note that, on the BHAL's ACC, not even the AMO has anything to say about commitments that have not been kept. This is not conducive to other members being informed.

When Bromley council officers tried to convince the Ombudsman that they could delegate their own responsibilities to the ACC (another example of the disregard LBB council officers have for the Lease and the residents), the Ombudsman replied (April 2020, page 6):

<<However, it is the owner and landlord of the Airport. And it has required the Airport to enter legally binding commitments with it. I find the Lease, the Deed of Variation, the NAP, the MIL and the appendices to the MIL all form part of a package of measures requiring the Airport to monitor noise, flight movements and complaints associated with flying activity. I consider the Council wrong to suggest there is no potential sanction for the Airport for not complying with the MIL. This is because the Deed of Variation required it be 'bound' by the terms of the MIL. I also consider the Council is more than a mere consultee in monitoring adherence to these agreements; i.e. its role as owner and landlord gives it powers beyond that conferred by its membership of the airport consultative committee and subcommittee which investigates complaints.>>

In view of all the evidence, local and national, we ask that Bromley bears in mind the inadequacy of BHAL's ACC and that it appoints a more senior representative than the current AMO, since he has clearly been unable to hold BHAL to account. Most of all, we ask that little reliance be put by LBB on

any recommendation presented or supported by BHAL's ACC, because it is not an independent and representative body.

In particular, we are aware that a special meeting of the Airport Consultative Committee was held to support BHAL's request to amend the Permitted User clause to allow for the introduction of fare-paying passengers.

Would you please confirm that BHAL's ACC will have no relevance at all in the matter, nor should it have in any other matters concerning the residents of the borough. It is the Lease that prevails and we absolutely draw a line on the Lease being further amended, diluted, added to or replaced in any way whatsoever.

The Lease is sacrosanct, and we do not want any Council Officer, however senior, to tamper with it. The communities who have bought properties in the area, have done so believing in the protection of a 125-year Lease. It is not for council officers to take liberties with it, or even introduce the concept of an "evolutionary NAP" as the AMO has suggested.

All that needs to be done now to try and mitigate the damage caused by the granting of the new hours and the unhelpful change in noise measures, is for the mitigating conditions promised to the residents to be enforced (they still are not, after more than six years). Then LBB must keep BHAL to the Lease and, assuming the promised conditions are finally complied with, to the Deed of Variation. Should the promised conditions continue not to be met, the Deed of Variation must be rescinded.

As the Leader of the Council, we are looking at you to ensure that this remains the case.

Yours sincerely,

Robert Pattullo
Chairman
Flightpath Watch

CC Ade Adetosoye, Chief Executive Officer, Bromley Council
Tasnim Shawkat, Director of Corporate Services, Bromley Council
Christopher Marlow, Portfolio Holder, Bromley Council
Gareth Bacon, MP for Orpington
Robert Courts, Undersecretary of State for Aviation
Tim Johnson, Director, Aviation Environment Federation