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Sent: 08 April 2019 10:48
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Subject: 2nd ExA QUESTIONS - NOISE

What steps are being taken to ensure that the Panel has access to sufficient expertise to examine the environmental impact assessment report in relation to noise?

It seems clear that the newly-formed Independent Commission on Civil Aviation Noise is unlikely to be able to make any positive response to the Examining Authority's request for technical advice. For its part, Public Health England (PHE) has now declined to respond to the Examining Authority's request to assist in defining the selection of noise levels for Significant Observed Adverse Effect and Unacceptable Adverse Effect noise levels. Nor, very plainly, has PHE found the resources to make a detailed or robust response to the applicant's noise impact assessment.

The enquiry is urgent in the light of the 2nd set of ExA questions (Ns.2) Those questions appear to have left unexamined or muddled, some significant, fact-based concerns about the applicant's methodology and metrics:

1. Noise contours contradicted by official records from 747-400s operating from Manston, and expert analysis. A lot of submitted data on this and considerable public testimony. Why no questions?
2. Baseline noise measurements flawed and unrepresentative. Why no questions?
3. "Basner awakening metric" misapplied (applicant's Statement of Common Ground with Public Health England has glossed unreasonable assumptions about existing insulation levels, habituation to noise of the existing population; conflation of sleep disturbance and sleep awakening). What experts are going to sort this out – surely not just the applicant's hirelings?
4. Historic England "Temple metric" guidance on conservation areas/heritage assets misapplied (applicant has already replied to the ExA question – the issues are why he has used averages to reverse the findings of the (correctly based) initial screening, and why he has failed to survey individual impact in line with the guidance – e.g.s were given). What experts are going to probe the applicant's sleight of hand – the applicant's?
5. Continuing reliance on equalised/averaged noise calculations masks the clarity and reality of impact analysis required by the amended parent EU Directive. The issue is especially pertinent to this application given the existing zero Manston aviation baseline.

Those concerns have been set out and evidenced in various oral and written submissions to the Examining Authority (for example in section C of Paper NNF 01 submitted for deadline 3 (REP3-275), the writer's presentation on behalf of NNF at the noise issue specific hearing, his submission to Deadline 5, published 5 April). How can these crucial matters be resolved satisfactorily without independent, qualified input? It cannot be right simply to refer to the applicant, especially as the applicant's principal expert has evidently only limited personal experience in this field.

You refer to the UK's Human Rights Act, which is plainly engaged. Please note that, according to the Court of Justice of the European Union, the core provisions in the parent Directive under which you are working are also intended to confer fundamental rights and protections upon us – and the principle of sincere cooperation as well as exemplary damages will be applied:

“3. In order to ensure the completeness and quality of the environmental impact assessment report:
(a) the developer shall ensure that the environmental impact assessment report is prepared by competent experts;
(b) the competent authority shall ensure that it has, or has access as necessary to, sufficient expertise to examine the environmental impact assessment report;”

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