

NNF19

Response from No Night Flights to ExA 4WQ

26th June 2019



Ns 4.10 **Quota Count Night Time**

The Applicant states in its Deadline 8 submission on page 6 states:

*“The Applicant has considered the night time quota count of 3028 that it is proposing in the light of night time flights now only consisting of late-arriving flights plus, emergency and humanitarian flights and departing flights between 0600 and 0700. It is unlikely that there would be more than five passenger flights departing during that hour, and unlikely that any aircraft with a quota count of greater than 1 would be used. The applicant is therefore willing to reduce the quota count to 2000 (365*5 being 1825), but this would be on the basis that late-arriving, emergency and humanitarian flights would be excluded from that total. If they are to be included as at present, then the Applicant would wish to keep the original figure of 3028.”*

Will the Applicant secure this commitment in the dDCO?



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RSP’s approach suggests that it thinks it is in negotiation with the ExA.

The change to the proposed night flight regime suggested by the Applicant must be understood for what it is and what it would inflict on the local community. This proposal would allow RSP to operate an **unlimited number** of “late” arriving night flights. Within that, it would also allow RSP to operate an unlimited number of planes as noisy as QC4, all arriving “late” at night.¹

No social or economic case has been made to support this 11th hour throwaway offer. The harm caused to local people and the surrounding area would be significant if it were to be approved as part of a DCO. This new proposal from RSP must be rejected.

Please remember – the current fleet mix, the assorted proposed curfews and resultant bunching, and now this new loophole, have never been subject to public consultation.

The night flight regime being proposed by RSP is open to significant and regular abuse by the airport operator, and offers little comfort to residents. Local residents know this, because we have lived with a night flight regime just like this one when the airport was operational.

The previous operators of Manston Airport (including Mr Freudmann when he ran the airport for Wiggins/Planestation) were not permitted to have *scheduled* night flights. However, the previous operators welcomed “late” arrivals at any time of the night. A surprisingly high percentage of arrivals into Manston had the

¹ This is the current position, pending agreement on Ns.4.8

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misfortune to be “late”. The system was being “gamed”.

In September 2010 Bickerdike Allen produced for Infratil a report to support Infratil’s bid for scheduled night flights to be permitted at Manston.² At paragraph 3.1 of that report, Bickerdike Allen said that:

“Night-time aircraft movements at Manston currently occur on an ad-hoc basis and involve aircraft of the type that are expected to fly in the future, for example the B747-400. The number of movements that take place currently vary from week to week and month to month but are typically around 2 per week at present.”

The ATMs using the B747-400 aircraft during this period were cargo ATMs. Two ad hoc night flights per week is around 104 “late” cargo arrivals a year. Over the three years 2008, 2009 and 2010, Manston had an average of 462 cargo ATMs p.a. This means that 22.5% of Manston’s cargo ATMs in that three year period were counted as “late” and permitted to land and/or take off during the night.

No Night Flights exists as a direct consequence of the previous night flight regime at Manston. We know what an ad hoc night flight regime means for our health and our quality of life. We are surprised and dismayed to see it rear its ugly head again – RSP’s proposal would allow an even greater level of harm than before, and this suggestion would increase the harm further still.

If the ExA accepts RSP’s suggestion that it be allowed to operate as many “late” arriving flights as it likes throughout the night, then local residents will be subjected to a level of night noise far beyond anything that RSP has claimed that it has modelled in its questionable noise contours in its ES. The ES did **not** model a limitless number of “late” flights arriving through the night. It should be remembered that, given the prevailing wind direction, 70% of those night arrivals in any one year would come in over Ramsgate.

If the ExA accepts RSP’s suggestion that it should be allowed to operate as many “late” arriving flights as it likes throughout the night, then it is **inevitably logically true** that the “likely worst case” cannot and will not have been assessed by the ExA as part of this DCO application. RSP has not modelled the noise impact of limitless night time arrivals in its ES. This therefore means that the “likely worst case” has not been weighed up by the ExA. This would make any decision to award a DCO open to legal challenge. There simply is no way of assessing the likely worst case in relation to night noise from aviation and from HGV traffic if RSP is given carte blanche to allow any number of “late” running aircraft to land, regardless of their QC rating,³ at any time of the night.

If the ExA accepts RSP’s suggestion that RSP be allowed to operate as many “late” arriving flights as it likes throughout the night, then the DCO will usher in a dedicated cargo airport that welcomes any flight at night as long as it was “scheduled” to arrive before 2300. The only limitation would be parking space for aircraft.

NNF has set out before⁴ the fact that a QC budget application of 1,995 QC points was assessed by TDC and concluded that the night flight regime that this

² Report previously submitted to the ExA

³ This is the current position, pending agreement on Ns.4.8

⁴ NNF’s 2018 consultation response; NNF06; NNF09; NNF17; NNF18

would introduce would cause more harm than good. RSP's proposed budget of 2,000 QC points and its application of that QC budget **only** to those flights between 0600 and 0700 is self-evidently a much more damaging proposition than the one that TDC considered and must be rejected, as it would cause **far** more harm than good.

NNF has set out before⁵ the fact that RSP's suggested QC budget is absurdly high compared to its suggested annual ATM cap. The comparisons that we made in previous submissions are still relevant now, even if the QC budget were to be reduced to 2,000 QC points:

"To demonstrate what might be inflicted on the local population, we have compared the night flight regime at a number of UK airports.

- In the year to March 2017, with a QC "spend" of 2,645 (87% of the budget that RSP wants),⁶ Luton had 7,450 night flights between 2330 and 0600 – **that's more than 20 flights a night on average**. Luton's QC budget is 3,500*
- In the year to 27 March 2016, with a QC "spend" of 5,741, Heathrow had 5,498 night flights between 2330 and 0600 – **that's more than 15 flights a night on average**. Heathrow's QC budget has been reduced to 5,150 from October 2018*
- In the summer of 2016, with a QC "spend" of 4,913 (1.6 x the budget that RSP wants)⁷ Gatwick had 11,303 night flights – **that's nearly 31 flights a night on average**.*

Put crudely, these airports handled between 1.04 ATMs and 2.8 ATMs per QC point spent.

[...] It would appear that RSP is hoping to have a significant proportion of its annual ATMs at night rather than during the day. It is difficult to gather the data to allow us to produce precise comparisons, but we offer the following reasonable approximations of the percentage of flights that are night flights at three of the airports mentioned above:

- At Heathrow, for 2017, 1.15% of its flights were night flights*
- At Gatwick, for 2017, 3.95% of its flights were night flights*
- At Luton, for 2017, 5.57% of its flights were night flights."*

RSP now proposes that it should be given an average of slightly less than 5.5 QC points a night, every night, to cover only those departures between 0600 and 0700. Bear in mind that, with a QC budget just 32% greater than the one that RSP is after, Luton managed more than 20 ATMs a night on average. RSP is

⁵ NNF09 para 132-133, and para 136. Submitted for D3

⁶ This is the proposed QC budget of 3028 QC points

⁷ Ditto

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now asking for a free pass to add (to its possible 15 “QC counted” ATMs a night) as many late arrivals as it likes, of anything up to and including QC4.⁸

As usual, RSP offers no ATM cap for its new suggested night flight regime. An ATM cap typically goes hand in hand with a QC budget. There is no reason why a new airport at Manston should have more freedom than other airports that use the QC system for night operations. Using the numbers gleaned from Heathrow, Luton and Gatwick above of between 1.04 and 2.8 ATMs for every QC point spent, RSP could use its proposed QC budget of 2,000 QC points to have 5.7 to 15.3 night flights⁹ between 0600 and 0700 every night as well as an unlimited number of “late” arrivals.

Nothing even approaching this level of night flights has been modelled in the ES.

Nothing even approaching this level of night flights has been set out in a public consultation.

At the upper end of over 15 “QC counted” night flights on average every night between 0600 and 0700, RSP would be able to operate half its annual passenger ATMs in Year 20 at this time of night. This is clearly absurd. RSP has provided no business case at all for being allowed to have this freedom. This means that the ExA cannot possibly weigh up the balance of harm caused and any commercial gain made. This punishing night flight regime must not be approved.

RSP consistently makes public statements that it does not want night flights and that there will be no night flights. Contradicting itself, RSP continues to ask for a quite extraordinarily high QC budget given the relatively small size of its proposed operation. RSP also continues to wriggle and duck and avoid a night ATM cap. RSP wants its proposed QC budget to apply to only one hour out of eight hours every night. RSP is clearly intending to secure the freedom to have a significant part of its operations at night. This is unacceptable. The negative impact of this on local people and our economy and environment has not even been assessed by RSP, let alone justified by any argument that any gain (and none has been identified) would outweigh the considerable and inevitable pain.

We imagine that the Applicant would be delighted to “secure this in the dDCO” as it would give it enormous freedom to operate night flights. The ExA must reject it.

RSP’s approach to its plans for night time operations has been dishonest. Its spokespeople have consistently misled the public. RSP’s approach is to bodge together a unique and liberal approach to night flying such that a significant percentage of its annual ATMs could take place at night. On the airport’s past performance of 22.5% of its annual cargo ATMs arriving “late” at night, together with an unknown number of ATMs every night operating between 0600 and 0700, **it would be easy for RSP to operate 25 night flights a night on average.**¹⁰ Some of these would be 747-400s. The extent of the noise impact of

⁸ This is the current position, pending agreement on Ns.4.8

⁹ $2,000 \text{ QC points} \div 365 = 5.48 \text{ QC points a night. } 5.48 \times 1.04 \text{ ATMs per QC point} = 5.7 \text{ ATMs a night. } 5.48 \times 2.8 \text{ ATMs per QC point} = 15.3 \text{ ATMs a night.}$

¹⁰ $17,170 \text{ cargo ATMs in year 20} \times 22.5\% = 3,863 \text{ “late” cargo ATMs p.a. or } 10.6 \text{ cargo ATMs per night on average, to be added to a possible } 15 \text{ ATMs using the Qc budget between } 0600 \text{ and } 0700$

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this on tens of thousands of people every night is clearly set out in the CAA noise contours submitted by NNF. RSP has never consulted the public about anything approaching this level of night noise.

RSP also continues to demand a free pass for any night ATMs rated QC0 and QC 0.125. The Government recognises that aircraft rated QC0 and QC 0.125 expose communities to noise levels that the WHO identifies as being capable of creating sleep disturbance. As part of the new night noise regime for the regulated airports,¹¹ the Government decided to *“introduce changes to the quota count system to ensure communities living around airports were protected from a potentially unlimited number of aircraft that would otherwise be exempt from the restrictions.”* RSP has ignored this. Its proposals would allow a limitless number of these flights to depart every night from 0600 as well as allowing them to land all night if they were “late”. RSP’s proposals fly in the face of recent Government decisions and must be rejected.

The WHO says that aircraft noise levels above 45dB Lden are *“associated with adverse health effects”*. CAP 1588, the CAA’s February 2018 findings on Aircraft Noise and Annoyance¹² says on page 7 that: *“the government decided to adopt the risk based approach proposed in their consultation, so that airspace decisions are made in line with the latest evidence and consistent with current guidance from the World Health Organisation.”* RSP has not based its night flight proposals on the latest evidence, and they are not consistent with current guidance from the World Health Organisation. RSP has never calculated Lden and it has not put before the ExA any Lden contours. RSP has not calculated what its new proposed night flight freedoms would mean for Lden, nor has it taken account of the clustering that it now admits will take place in ATMs during the evening. Given this, the ExA simply cannot assess how many people would be within the 45Lden contour. The ExA cannot recommend to the Secretary of State that RSP’s night flight proposals are in line with the 2018 WHO guidelines given this gap in RSP’s noise impact assessment.

The night noise contours produced for NNF by the CAA were modelled on far fewer ATMs than RSP is now angling for. Those contours show that tens of thousands of people would be adversely affected by night noise from aviation. An honest and accurate assessment of RSP’s current night flight proposals would demonstrate much bigger night noise contours than the ones produced for NNF by the CAA. This would show that many more people would be adversely affected by the noise from aviation operations at night.

RSP has not assessed what benefits, if any, might arise from its suggested night flight regime. The Government’s Impact Assessment for Night Flight Restrictions at the Designated Airports 2017-2022 [submitted previously] explicitly recognises the need to do this, mentioning the Hatton judgment on page 20 and saying: *“Firstly, previous legal judgments on the night flights regime have also ruled that night flights adversely affect the rights of people living near airports; and that the Government has an obligation to balance the rights of those persons with the economic interests of those operating and benefiting from those flights.”*

¹¹ Department for Transport - Night flight restrictions at Heathrow, Gatwick and Stansted. Decision document – July 2017

¹² Referred to by the ExA in 2WQ Ns 2.13

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RSP has not given the ExA the information it needs to be able to undertake this balancing assessment.

RSP has often claimed during this DCO process that what dedicated air cargo operators into and out of the UK want is daytime airport capacity. That is the rationale for its proposal for a massively overdeveloped site with 19 cargo stands. Yet RSP's latest night flight wheeze would set the scene for it to operate a substantial night operation for cargo and passengers. RSP has put forward no business rationale for doing this. Indeed, it would be hard for RSP to do so as it claims that its "extensive" research with key industry players has identified a need for daytime capacity. RSP's substantial night flight proposal simply cannot be reconciled with its claim that this project is potentially an NSIP because it will provide the daytime dedicated cargo capacity that RSP says the UK air cargo sector desperately wants.

If the ExA is minded to award RSP a DCO at all, then we urge the ExA not to be taken in by this latest slippery suggestion by RSP over its QC proposals.

We urge the ExA to insist on an outright night flight ban – no arrivals, "late", scheduled, programmed, timetabled, chartered or otherwise.

No departures at any time of night and no stream of ATMs departing from 0600.

Nothing between 2300 and 0700 unless it is a *genuine* emergency.

No flights in, no flights out.

A clear, clean, unfudgeable ban on night flights.