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3 April 2003

Dear Sirs,

APPLICATION BY PEEL AIRPORTS (FINNINGLEY) LTD FOR THE REDEVELOPMENT OF FINNINGLEY AIRFIELD FOR THE PURPOSES OF A COMMERCIAL AIRPORT WITH AIRPORT RELATED BUSINESS, LEISURE AND HOTEL ACTIVITIES

1. I am directed by the First Secretary of State to say that consideration has been given to the report of the Inspector, Mr G Self MA MSc(Eng) DipIC FRTPI, concerning the application set out in Annex A to this letter. Between 25 September 2001 and 13 March 2002 Mr Self held a Public Inquiry into this application. He was assisted by the Deputy Inspector, Mr N Roberts BA DipTP MRTPI, and the Assessor, Mr C Frost BSc DipLD FLI CBiol MIBiol MRTPI.
2. On 30 March 2001, the Secretary of State directed, in pursuance of section 77 of the Town and Country Planning Act 1990, that the application be referred to him instead of being dealt with by the local planning authority, Doncaster Metropolitan Borough Council ("the Council").
3. A copy of the Inspector's "Assessment and Conclusions" in Chapter 13 of his report and the Appendix 4, the Assessor's Report, is attached at Annex B to this letter with an Addendum provided, by the Inspector, in response to a request from the Secretary of State for clarification of certain matters in the Inspector's report, also at Annex B. All references to paragraph numbers, unless otherwise stated, are to the Inspector's Report.

General

4. Careful consideration has been given to all the arguments put forward on behalf of the applicants, the Local Planning Authority and other parties and to the Inspector's conclusions and recommendations in the Inspector's Report.
5. Since the Inquiry closed, the Secretary of State has received 39 written representations related to the proposals; listed in a Schedule attached to this letter at Annex C. All of them have been carefully considered. Nothing in these representations appears to the Secretary of State to constitute new evidence, or to raise a new issue which needs to be referred to the parties before the Secretary of State proceeds to a decision. Nor have they been such as to cause the Secretary of State to take a different view of the matters before him from that which he would otherwise have taken.
6. As the Inspector records in IR13.28, it is the Government's intention to prepare a new UK airports policy looking some 30 years ahead. This intention had not resulted in the publication of any new policy White Paper by the close of the Inquiry nor has any policy White Paper been published since the Inquiry closed. The Secretary of State for Transport issued consultation documents on "The Future of Air Transport in the United Kingdom" in July 2002 and the report on the Regional Air Services Co-ordination Study (RASCO), referred to by the Inspector in IR13.29, in October 2002. These documents do not seek to review the proposals for the redevelopment of Finningley Airfield but state

- a survey of planning applications in relation to birdstrike risk in the Finningley SGZ;
 - an assessment of proposed development on birdstrike risk within the Finningley SGZ.
- 3.159 He concluded that a wide range of species could potentially present birdstrike risks around Finningley, but that key species (particularly gulls) occurred in relatively small numbers and did not present a significant threat.
- 3.160 Finningley was considered to be in a favourable location in terms of birdstrike risk as it was not associated with bird attractant features such as large water-bodies, estuaries or topographical features likely to result in bird flightlines. The River Idle washlands were situated where aircraft would have an altitude between 500 and 1500 ft. Consequently aircraft would be unlikely to interfere with normal bird flight patterns [PAL 17/2 paras 7.18-7.24]. Birdstrike records elsewhere showed low levels of birdstrike associated with wildfowl. A survey of planning applications in the area did not reveal any development likely to increase birdstrike risk significantly. This conclusion also applied to conservation schemes in the area, including the re-wetting of Hatfield Moors.
- 3.161 Dr Armstrong accepted that there were risks of birdstrike in relation to a number of species of wild and domesticated birds, including racing pigeons. However, he saw no reason to consider that these risks would be significant. Large multi-engined aircraft should cope with a single strike and problems mainly arose from multiple strikes. Control measures (as described in Document PAL 17/4) would be operated in order to reduce risks and these would be addressed in relation to any CAA application. The probability of nightjars being involved in a birdstrike event was very remote.
- 3.162 Work done in comparing Finningley to other airports demonstrated that there would be no significant birdstrike risk that would justify rejecting a licence and that this was a favourable site compared with other airports.
- 3.163 Dr Armstrong had not been aware of Mr Spencer's hobby activities, involving flying birds of prey including peregrine falcons, Harris hawks and an eagle. Nor was Dr Armstrong aware that members of a club and friends of Mr Spencer used a field behind Mr Spencer's house for this hobby. From the information put to him in cross-examination, Dr Armstrong considered that there would be no birdstrike risk from these activities. Large, fast birds like the eagle would be able to get out of the way of aircraft. Peregrine falcons could move at 240 mph and could avoid aircraft. The vast majority of flights by birds of prey would be well below 500 ft altitude.

Water Resources

- 3.164 Evidence on this subject was given by Mr Booth. His evidence in chief was contained mainly in Documents PAL 20/1, 20/2 and 20/3 (proof, appendices and rebuttal proof). Other written submissions included Document PAL 20/4, a supplementary note.

agreed that nightjars had been recorded on Hatfield Moors for a long time and he was aware of changes in the local environment including the establishment of RAF Finningley, the construction of the M180 and changes in farming practices.

- 8.81 Research (Document FAN 49, Appendix 7) showed a negative correlation between grey partridge pair density and road traffic noise. However, Mr Masheder accepted that this correlation only applied to the grey partridge and within 100m of a heavily trafficked road. The Moors were never nearer than 500m from the nearest through traffic and here, species other than the grey partridge were the subject of concern. Nevertheless, he considered that lack of clear evidence on any matter did not mean that there would be no harm within the Moors. Lack of knowledge should be addressed by gathering evidence in order to make an assessment. In the absence of knowledge, permission should be refused on a precautionary basis.
- 8.82 Mr Masheder acknowledged that refugia (areas where no peat had been stripped) were of vital importance to the integrity of the Moors. Even though in a degraded state, these areas retained a rich invertebrate fauna. He noted, with some regret, that English Nature had withdrawn its objection to the scheme, but felt that the evidence still supported the refusal of planning permission.

Birdstrike Risk, Mitigation Methods and Airport Safeguarding

- 8.83 Evidence on birdstrike risk was presented by Dr Allan, based on Documents FAN 10 (proof), FAN 10A (Appendix 1), FAN 34 (supplementary proof), FAN 63 (summary) & FAN 36 (Doncaster bird report 1999). Subsequently, relevant information was provided by Ms Thompson at Documents FAN 73 and FAN 75 (CAA Bird Safeguarding Guidelines (draft text version 1 – 29/11/01)). Dr Allan dealt with the following topics:
- birdstrike risk;
 - the impact of aircraft on local bird populations;
 - the likely effect of aerodrome safeguarding on future bird attracting developments in the area.
- 8.84 He concluded that an inadequate assessment of the bird hazard to aircraft had been carried out, and that it was based on insufficient information to allow a valid conclusion to be drawn. Similar inadequacies in the assessment of the impact of aircraft on bird populations gave an underestimate of the true case. The likely impact of aerodrome safeguarding on the future development of areas for nature conservation had been significantly underestimated.
- 8.85 Dr Allan drew attention to Draft Bird Safeguarding Guidelines produced by the CAA and subsequently presented to the inquiry as Document FAN 73. The guidelines pointed out (in paragraph 2.3) that the transfer of responsibility from the CAA to the aerodromes would require a new Safeguarding Direction. He understood that the effects would be to cause all bird attracting wetland development within the safeguarding zone to become the subject of objection on the grounds of bird hazard. This would have implications for nature conservation interests around Finningley and particularly in relation to the proposed re-wetting of Hatfield Moors.

8.86 Dr Allan accepted that airports operating near high bird populations had a high birdstrike record and cited JFK airport in the USA. He acknowledged that although there were high gull populations around LHR, there were few strikes because bird flight lines tended not to cross aircraft flight-paths. He was unable to say how Finningley might compare with any existing airport in terms of likely birdstrike incidents.

OTHER EVIDENCE

8.87 The following further topics were covered in written submissions, the authors of which were not called as witnesses.⁵³

- Local employment impact and passenger forecasts.
- Aircraft operations.
- Air quality.
- Health.
- RAF operations.
- Environmental consequences.

Local Employment Impact and Passenger Forecasts

8.88 Document FAN 2 was submitted as a proof of evidence on local employment impact.⁵⁴ Document FAN 19 was submitted as a "rebuttal proof on passenger forecasts". The topics covered in the first of these documents include:

- the local economy;
- airport development;
- DTZ Piedad's estimates (for Peel);
- Berkeley Hanover Consulting's estimates (for FAN).

8.89 The proof concludes that the development of DFA would not automatically facilitate significant economic growth in the local area. Much would leak into the surrounding area. Expanding the airport would place pressures on the transport network in Doncaster and if local transport improvements such as a rail link were not undertaken, there would not necessarily be a significant increase in economic activity. The jobs created at the airport would not automatically go to the people from the study area, but might attract commuters from neighbouring areas.

8.90 Whilst the presence of an airport might make the area attractive to investors, it was not the most important factor in most company decisions to locate or expand. By artificially restricting the study area to three local authorities, Peel's consultants had exaggerated the total employment impact of the airport in the local economy. The

⁵³ As noted in the Introduction, many of the documents referred to here are labelled as "proofs of evidence" although they were not the subject of oral evidence. The authors of these documents are not listed in the "Appearances" but are identified in footnotes.

⁵⁴ The author is Mr M Shenfield BA(Econ), partner in firm of Berkeley Hanover Consulting.

Airport Operations and Safety Issues

- 13.214 A number of points were raised, mainly by FAN but also by other objectors including Mr Dawson, about operational and safety matters. FAN's evidence on these topics was put forward by written submissions.
- 13.215 If DFA were developed as a commercial airport, it could not be operated in the way proposed without a CAA licence. No licence would be issued unless the CAA were satisfied that proper safety standards would be met with regard to matters such as runway operations, the use of air space and air traffic control systems.
- 13.216 FAN's written evidence about aircraft operation asserts that because of the proposed runway utilisation at DFA, aircraft taking off would be "very often likely to meet aircraft head-on down the approach path" and implies that safe operation would not be possible [8.93, FAN 4 para 2.5]. This evidence could not be tested by questioning at the inquiry and I prefer the contrary evidence for Peel. As noted above, many UK airports operate a preferred runway directional use system; all air traffic control procedures would be agreed with the CAA and professional air traffic controllers would not approve manoeuvres with the possibility of aircraft encountering other aircraft [3.84, PAL 8/3 paras 1.5-1.6].
- 13.217 Mr Dawson's concerns about safety appeared to stem from some misunderstanding of published material. For example, although the "take-off field length" at sea level for one version of the Boeing 767 is listed as 2713 metres in the publication submitted by Mr Dawson [PAD 10D], that does not mean that this aircraft needs 2713 metres to take off, because part of the specified distance is to allow an aircraft to stop if take-off is aborted [10.53, PAL 136]. In any case, CAA regulations would not allow commercial aircraft to take off from an airport with insufficient runway length for the type of aircraft operated.
- 13.218 Taking account of the above points, I am satisfied that there is no compelling case against the proposed development for reasons relating to aircraft operations or safety.

Birdstrike Risk

- 13.219 Evidence on this topic was presented by Peel, by FAN, and on behalf of Partridge Hill Farm and the Doncaster Naturalists Society. The issue is also referred to in some of the written representations. This matter is relevant to aviation safety as well as potentially affecting nature conservation.
- 13.220 Safety problems from birds mainly arise from multiple strikes [3.161]. Hence the existence of features which attract large number of birds would increase the risk to aircraft safety. If aircraft flight paths are likely to coincide with or cross those used by significant numbers of birds, for example, between roosting sites and feeding areas or along established flight corridors, the risk would be increased. At Finningley there are few topographical features likely to result in well-used bird flightlines across projected aircraft flight paths. The location appears to be more inherently suitable in this respect than, for example, airports such as LPL situated next to estuaries or other large bird-attracting water bodies [3.294]. (The issue of re-wetting or creating water

bodies in the vicinity of the site is considered in the Assessor's written report and under the heading of nature conservation below.)

- 13.221 In areas where relatively large numbers of birds are known to congregate such as the River Idle Washlands, there appears to be little incentive for the birds to fly across proposed aircraft flight paths in search of food. However, there are species which could present risk, including various species of geese, swans, corvids and gulls. Species such as gulls which tend to flock occur in relatively small numbers around Finningley and do not appear to present a significant safety threat.
- 13.222 If DFA were developed, monitoring would be required to keep track of populations and control measures would need to be introduced in vulnerable areas, mainly close to the airfield where aircraft altitudes would be below 500 ft. CAA licensing procedures would require any evident birdstrike problems to be addressed and control measures taken, such as the use of physical deterrents and control over grass height [3.161, PAL 17/4 Section 2]. Nightjars do not flock or form flightlines and do not exhibit any behaviour likely to create a birdstrike risk [PAL 17/4, last page].
- 13.223 Although Mr Spencer withdrew his objection and did not give evidence about his hunting-bird training and flying activities, the available information about these activities cannot be ignored. Because of the lack of evidence, I do not know how frequently or intensively the field behind Mr Spencer's house is used for bird-flying [3.163]. There is no evidence that planning permission has been granted for recreational use of this field.
- 13.224 Be that as it may, the evidence suggests that birds such as falcons, hawks and eagles could take avoiding action if necessary [3.163]. I judge that the risk of collision between Mr Spencer's birds and aircraft would be low.
- 13.225 In my judgement it cannot be concluded from the evidence that there would be no birdstrike risk if a commercial airport were to be operated at DFA. More work would apparently be necessary if CAA safety requirements were to be met but that is a separate matter from the planning application. What can be concluded at this stage is that the possibility of birdstrike problems does not appear to be particularly serious at Finningley compared with airports elsewhere. I therefore consider that there is no convincing evidence to indicate that planning permission should be refused on the basis of birdstrike hazard.

Nature Conservation Issues

- 13.226 These issues are discussed in the Assessor's report (Appendix 4). The Assessor refers particularly to the airfield site itself, to Partridge Hill Farm and to Hatfield Moor.⁹¹ He finds that the effects of the development on nature conservation interests within the application site would be limited, though some depletion of bird numbers would be likely and attention to certain safeguarding measures would be needed, such as the translocation of a population of lizards. The conservation potential of Partridge Hill Farm would become more restricted as a result of the development but harm would be limited and of only local significance. A lesser impact would be likely at other farms.

⁹¹ See footnote about the singular "Moor" in Section 2, page 19.

- 13.227 The Assessor considers the effect of noise and air quality changes on the nature conservation of Hatfield Moor. He concludes that although noise from a new pattern of aviation activity might have an effect on the nightjar population, there is a strong pointer towards the assumption that the proposal would not significantly limit nightjar breeding. Loss of these birds by birdstrike events is considered to be highly improbable for the reasons noted above.
- 13.228 As regards the possible effects on air quality at Hatfield Moor, the Assessor considers that the airport could influence the future pattern of development of new ecosystems but the integrity of the Moor would not be materially harmed. No compelling case against the proposal is found on air quality issues relating to Hatfield Moor. There is a lack of certainty but little justification for the precautionary approach advocated by FAN and others.
- 13.229 Having considered future proposals for nature conservation at Thorne and Hatfield Moors and elsewhere, the Assessor finds that the airport would not preclude future re-wetting. However, there is the possibility of the proposed airport limiting future activities which could attract more birds to the River Idle Washlands SSSI.
- 13.230 The Assessor goes on to discuss policy guidance contained in PPG 9 and the approach put forward in the PPG to development proposals affecting SPAs, SACs and cSACs. In that context, he does not regard the airport as a serious threat to the conservation objectives for Hatfield Moor and he considers that any adverse impact would not impinge on the integrity of the site.
- 13.231 I agree with the Assessor's conclusions. It may be helpful to add that in setting out some of the guidance in PPG 9 at paragraphs 27-31 of his report, the Assessor is referring to numerous alternative permutations. These are shown as a flow-diagram in Annex C of PPG 9. This part of the Assessor's report provides advice for the Secretary of State allowing for the possibility that alternative findings may produce different paths through the flow-diagram. The important point is that in the Assessor's view, the proposal would not be likely to have a significant effect on the nature conservation sites referred to, or affect the integrity of such a site. Only if the Secretary of State were to disagree with both of those conclusions would any of the other steps in the alternative chains of reasoning set out in this part of PPG 9 become relevant.
- 13.232 I think it is also important to note the position of English Nature (EN) who originally made what was apparently a "holding objection" but later withdrew their opposition [4.10, 8.82, 10.102, FAN 62]. The heading of the letter from EN confirming their withdrawal refers to the Hatfield Moor SSSI, the Thorne and Hatfield Moors Special Protection Area (SPA) and the Hatfield Moor possible Special Area of Conservation (pSAC). The letter states that in the light of information provided by Doncaster MBC, EN is satisfied that the proposal "will not have a likely significant effect alone or in combination with other plans or projects". EN is also satisfied that the proposal would not have a detrimental effect on the SSSI [FAN 62]. Though local nature conservation bodies disagree, the statement by EN has weight since EN is a statutory body responsible for safeguarding nature conservation interests.

13.233 There appears to have been some lack of co-ordination within EN. The unequivocal written statement was made in August 2001 that "English Nature therefore now removes its objection to the proposal" [FAN 62]. But a later letter in December 2001 raises concerns, mainly about the River Idle Washlands and related SSSIs [11.10]. This confusion arises because the letters are from different offices (or "teams") of EN. Any reader of the August 2001 letter is entitled to take it that EN no longer objects to the proposal.

13.234 Nevertheless, I have considered the concerns expressed by the "East Midlands Team" of EN. I can understand the reason for the concerns; but they are only expressed as possibilities. It is suggested, for example, that the proposal "may" have a negative influence on the SSSIs and "may" raise air safety concerns. The Assessor also refers to the possibility of limitations on habitat creation, but points out the likely height differences between most wildfowl activity and aircraft. Taking the conjectural nature of EN's comments into account, together with the Assessor's views, I do not find that there is a sound basis for opposing the grant of planning permission because of concern about SSSIs and future wetland formation.

13.235 In summary, there are some doubts or uncertainties and safeguarding measures would be needed if the proposal were to proceed; nevertheless I find that there is no clear-cut case against the proposal on nature conservation grounds.

Air Quality and Health

13.236 Some aspects of air quality have already been covered insofar as they relate to nature conservation. Other aspects are discussed in the Assessor's report and are perceived as raising three main issues. In summary these are: the effect of emissions from aircraft and road traffic on air quality and on policy or legal objectives; the effect of any breach of objectives on human health or quality of life; and the effect on international obligations relating to "greenhouse gases" (primarily carbon dioxide).

13.237 The Assessor concludes that with regard to air quality, controlled mitigation measures would be important to ensure compliance with international obligations. On health matters, the balance of advantage appears to lie in favour of the development. "Greenhouse gas" emissions could increase and if so, that would count against the proposal, but there are counterbalancing factors and the overall likely effects are far from clear. I agree with the Assessor's conclusions on these topics.

13.238 I also draw attention to two points. First, the term "health" used in the health impact assessment does not refer just to the absence of disease or infirmity but is based on the WHO definition of social, physical and mental well-being. That perhaps partly explains why improved employment opportunity and economic regeneration is predicted to have a beneficial effect on health.

13.239 Secondly, the impact of the proposal on health can only be assessed on a broad, general basis. The witnesses for both Peel and the Borough Council acknowledged that there would be some negative effects from pollution [3.138, 4.65] and this is noted in the Assessor's report, although there would be no reason to reject the proposal on health impact grounds. Inevitably, if the airport were developed there would be some people who would be more sensitive to its side-effects than others.

APPENDIX 4: ASSESSOR'S REPORT

APPLICATION BY PEEL AIRPORTS (FINNINGLEY) LTD LAND AT HAYFIELD LANE, FINNINGLEY REPORT BY ASSESSOR TO INSPECTOR

1. As you know, I acted as assessor on nature conservation and other aspects of the inquiry into the above application. I report below on the topics of nature conservation, air quality and human health.
2. An environmental assessment was submitted with the application which included:
 - a) an environmental statement under the Town and Country Planning (Assessment of Environmental Effects) Regulations 1988;
 - b) comments from statutory consultees (i.e. those required to be consulted by the Regulations) and other representations about the environmental statement and the likely effects of the proposed development;
 - c) further information or evidence obtained specifically under Regulation 21(1) or (2).
3. I have taken account of this environmental information where it remains relevant and pertinent to the matters I have considered.
4. This report contains my appraisal of the evidence and my conclusions. References in square brackets refer to paragraph numbers in the main report or documents, the latter having lettered prefixes.

NATURE CONSERVATION ISSUES

5. Evidence on matters relating to nature conservation was presented by Peel (the applicants) [3.138-3.150], the Borough Council [4.66-4.70], FAN [8.85-8.98], P S Goodall & Partners of Partridge Hill Farm [10.90-10.98], Doncaster Naturalists Society [10.99-10.103], Thorne and Hatfield Moors Conservation Forum [10.104-10.106], and the CPRE [10.107-10.110]. Some of the nature conservation issues were also referred to in written representations.

The Airport Site

6. The effects on nature conservation interests within the airport site are limited, as there are no designated sites or nationally or regionally scarce plant species on the site [3.141]. Leaving aside avian species, the only vertebrate animal species noted as affected would be a population of common lizards [3.142]. Part of their habitat would be lost, but I am satisfied that measures to re-create this habitat and translocate the lizards could be undertaken. A condition would be necessary to require attention to be given to this aspect.
7. In general terms birds would be discouraged from the airport site because of the need to achieve a safe environment for the landing and take-off of aircraft. The proposed bird

and it is considered that there are alternatives (such as relying on existing airports to meet demand) then the PPG advice is that planning permission should not be granted. Alternatively, if this is taken to mean a solution to finding a new use for the Finningley site it seems likely that many forms of new development here would have similar or worse consequences in terms of pollution. This would place a severe constraint on the re-use of the Finningley site but, based on the advice in PPG 9, planning permission for the airport should not be granted in these circumstances.

31. If it were concluded that there were no alternative solutions, the presence of any priority habitat and species would need to be considered. In this case the nightjar is a priority species. Accordingly, if it were concluded that the nightjar population would be affected by the proposed development, the PPG advises that it would be necessary to consider human health and safety considerations, or any benefits of primary importance to the environment before planning permission could be granted. I find that there are no compelling advantages arising from these considerations. If any were to be identified they might enable planning permission to be granted despite any effect on the priority species. Otherwise, some other imperative reason of overriding public interest would need to be identified, following consultation between Government and the European Commission.
32. If it were concluded that there were no alternative solutions and that no priority habitat or species would be affected, then imperative reasons of overriding public interest would still need to be identified in order to enable planning permission to be granted in accord with PPG advice.

Conclusions

33. Within the airport site there is only a limited amount of nature conservation interest. With suitable conditions harm could be mitigated and there would be opportunities for habitat creation and enhancement. Birds would be discouraged from using habitats available here, so there would be a reduction in bird populations. However, species currently represented in the locality would be unlikely to change. From this I do not consider that there is any substantial objection to the scheme based on the effect on the site itself.
34. More widely, but within about 4km of the airport, the main effect would be on farmland. In particular Partridge Hill Farm would be affected, with its regime of conservation management. The main effect would be the discouragement of birds as a result of aviation activity and bird control measures taken by the airport. The effect would be negative, but of local significance only. While unwelcome, I do not regard this as a substantial objection to the scheme.
35. Effects on the River Idle Washlands, which are of national importance, could arise from objections to future habitat creation or development that might attract greater numbers of birds to these areas. However, these habitats already exist and their enhancement would not necessarily attract objection as aircraft would be flying in excess of 500 feet over these areas. Nevertheless, the possibility of limitations on habitat creation or development cannot be excluded and must therefore weigh in the balance against the airport development. However, I see this as less important than habitat loss, which would not arise from the airport development in these areas.