

Planning Committee: 08 March 2005

Principal Item Number: 13

Application No: W960454

Registration Date: 29/04/1996

Town/Parish Council: Baginton
Case Officer: John Archer
01926 456500

Expiry Date: 24/06/1996

Variation to Section 106 Agreement, Coventry Airport

The application to which this agreement relates was granted in June 1998 for the Parcelforce development. The current proposal is a request from an airport - based company, Rangemile Ltd, to continue to operate with a further dispensation from the terms of the S106 Agreement as previously agreed by Planning Committee.

SUMMARY OF REPRESENTATIONS

Baginton Parish Council – no objection for an extension of dispensation for a further year.

Mid West Executive Aviation (based at Coventry Airport) – dispensation should be revoked.

Section 106 Signatories comments

Coventry City Council – No objections

Post Office – No reply received

WCC – No objection

WMIAL – West Midlands International Airport (Coventry Airport):

“Our formal position has to be that we would wish the provisions of any S106 Agreement to be met. Providing dispensations to S106 Agreements would not be in the long term best policy interest of the Airport Company. Notwithstanding our formal position we would hope that your Planning Authority could be appraised of the aspirations of our plans to continue to provide adequate Business and General Aviation facilities on the Airport North and West sites”

BACKGROUND

Within the Section 106 Agreement entered into as part of the Parcelforce permission granted in June 1998, a restriction was placed on the area of apron adjacent to hangars 1-7 at what is now known as ‘Airport West’ (see attached plan). This restriction was to prevent aircraft of greater than 9000 kg maximum take off weight utilising the area.

The purpose of this restriction was to reduce the operation of large, noisy aircraft from this part of the airport by restricting them to those already operated from Hangars 5, 6 and 7 and thereby reduce the impact of ground based aircraft noise on neighbouring occupiers. The area was otherwise accepted as appropriate for General Aviation Operations. However, one Operator, Rangemile Ltd, had operated a business aircraft charter and handling operation from within this area for more than 30 years. The aircraft operated and handled are generally in excess of 9000 kg and therefore the restrictions in place effectively prevent their operation. As they have operated and handled aircraft that notwithstanding their MTOW exceeding 9000 kg have limited noise impact and have

not been the subject of complaint, the Planning Committee, at its meeting of July 2002 agreed to a 1 year dispensation from the need to comply with this restriction, in order for them to find an alternative location on the airport.

The Committee approved a further request for a dispensation in November 2003 as re-location had not been achieved by that time.

A further request has now been received from Rangemile for a further period of dispensation as Rangemile are not yet in a position to relocate.

Whilst this is a yet a further extension of the existing operation, it is understood that proposals have not yet fully evolved on the north/west sites to enable a relocation to take place. Given that the operation has continued without complaint or apparent disturbance to the local community it would not, in my view, be unreasonable for a further 1 year extension of the dispensation to be allowed.

OTHER ISSUES

Members will note that there have been objections from other sources.

The Airport is a signatory to the S106 Agreement and is an equal party to all other signatories. Any signatory can unilaterally take action through the Courts to require compliance with a covenant on the use of land established, in this instance, through the Section 106 Agreement. Where all signatories agree to a dispensation, then this right is effectively suspended. This was the position in relation to the previous two requests and the Council has acted as co-ordinator of the arrangement. In the present instance, because the Airport do not formally agree to such an arrangement, if Members are agreeable to a dispensation, then all that the Committee can do is to resolve not to undertake any action on its own part to require compliance with the agreement within a fixed period of time. Should the airport wish to take action against any breach, it would still be open for it so to do independently. I am not aware, however, that it would wish to do so.

Mid West Executive Aviation, a company located at Airport West have also objected. They are not a signatory to the Agreement, but are a party with a commercial interest in that they also operate an aircraft handling operation. They have been moved from their former location at Rapide House on Airport South to Airport West. Here they operate in competition with Rangemile but do not have the benefit of dispensation and therefore are required to park their aircraft further away, outside the restricted area, which, it is alleged, puts them at a commercial disadvantage.

Whilst recognising the issue raised by this company, issues of competition in this respect cannot be a deciding factor in whether or not to extend the dispensation to Rangemile.

It does, however, give rise to consideration of the underlying purpose of the restriction, and whether or not the 9000 kg limit is the most effective means of achieving this. When the Section 106 was being negotiated clear, simple measures were sought that would be clear and straight forward to assess and monitor.

The purpose of the restriction was to prevent the older, noisier and larger aircraft (other than those operated from Hangars 5, 6 and 7) from undergoing ground operations near to the village boundary. A limit of 9000 kg was agreed as this was a relatively straight forward measure. However, the reality is that, particularly with modern business jets, there are aircraft that exceed the 9000 kg limit that have very low noise impacts, as evidenced by the lack of problem associated with the Rangemile Operation. Indeed, there are also aircraft below that weight limit that may have a greater noise impact. It may be appropriate therefore to give consideration to an alternative means of

constraining operations in this area that would enable low noise impact ground operation associated with General Aviation only to continue here. This would not necessarily be a simple matter and would need further negotiation between the parties involved and specialist advice to be sought. However, if it were possible to establish such a regime and thereby be satisfied that the environment of neighbouring occupiers was still sufficiently protected and potentially improved, this may be a better way forward. Such an approach would apply equally to all those who wished to operate within this area, and would avoid the need for dispensations and the perceived unequal treatment of different operators whose impact is similar. In my view, it therefore, would be appropriate to explore if there may be a more effective and responsive way of protecting the environment of Baginton Village whilst permitting legitimate general aviation aircraft handling operations to continue.

RECOMMENDATIONS

1. That the Planning Committee raise no objection to the operation of Rangemile Ltd without compliance with the 9000 kg requirement and undertake not to take any action to secure such compliance for a period of 12 months expiring at the end of March 2006.
 2. That consideration be given to potential alternative methods of control over the impact of ground based aircraft operations within the "Red Area" and a report be made back to Planning Committee in due course.
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