

13<sup>th</sup> January 2005

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SF/CMc

By Hand

BCA Planning Agreement Consultation  
Planning Service Headquarters Admin Section  
2<sup>nd</sup> Floor, Millennium House,  
17-25 Great Victoria Street,  
Belfast  
BT2 7BN

Dear Sir / Madam,

**RE: Consultation on Review of Planning Agreement with Belfast City Airport**

We write to comment on proposals to review the current Belfast City Airport Planning Agreement. We have some experience of airport development having worked on developments in the past at Belfast International Airport, Belfast City Airport, London Gatwick Airport, Aberdeen Airport, London Luton Airport, Cardiff International airport, Stockholm Skavsta Airport, Kirkwall Airport, Stornoway Airport and Port Salines Grenada Airport. We are currently working on developments at Belfast International Airport, London Luton Airport, Cardiff International airport, Stockholm Skavsta Airport, Cambridge Airport, Wick Airport and Benbecula Airport.

We have studied the BCA submission documents as posted on your web site and we would contend that any proposal to review the seats for sale restriction in the current BCA Planning Agreement is a serious matter which could affect the environmental amenity of the city and its surrounds and therefore should be dealt with by planning application for the intensification of use leading to Public Inquiry.

In support of our contention, we quote from a briefing document provided to us by the Planning Service in June 1995

*"The Belfast Harbour Plan as published in 1990 sought to introduce planning control over future growth of the City Airport by defining a threshold – determined by the number of air transport movements – beyond which further expansion would require planning permission.*

*This approach, however, was successfully challenged at the Public Inquiry by the airport operators. BCA argued that it possessed existing use rights and could not be required through a statutory development plan to seek planning permission at some point in the future in order to allow it to continue to operate.*

*The Department was relying on legal precedent that, in certain circumstances, intensification of authorised operations can amount to a material change of use for which planning permission is required. Lawyers acting for BCA, however, persuaded the Planning Appeals*

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PLANNINGHQADMIN



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*Commission that the point when such a change occurred cannot be predetermined by any statement in a development plan.*

*The Inquiry did establish that the physical capacity of the existing terminal building was 1.5 million passengers per year, and that this figure could be used to gauge the extent of the existing use rights. BCA also declared at the Inquiry that it would voluntarily abide by certain operational constraints mentioned in the Plan – specifically to preclude night flying and to maintain a bias in favour of the flight path over Belfast Lough.*

*The Harbour Local Plan was thus adopted with some modification. It recorded the voluntary commitments but, in accordance with the recommendations of the Planning Appeals Commission and in the light of legal opinion, imposed no express limitation on passenger throughput or on the number of flights in and out of the airport.*

### Planning Agreement

*A legally binding control was subsequently introduced following the submission, in September 1993, of a planning application (Z/93/0612) for alternations and extensions to the existing terminal building. The extension was necessary to remedy a shortfall in security systems as compared with national requirements.*

*The Department took the view that a material consideration in dealing with this application was the environmental consequence of authorising the extension, albeit modest and required for security reasons, if it effectively extended the existing use rights of the airport operators.*

*Before determining this application, the Department sought confirmation of the commitments given at the Public Inquiry. Belfast City Airports Limited and Short Brothers plc then entered into a planning agreement under Article 40 of the Planning (Northern Ireland) Order 1991.*

*Through the planning agreement, the airport operators are regarded as having honoured the commitments made at the Public Inquiry into the Belfast Harbour Local Plan, including implicit acknowledgement that the capacity of the existing terminal, assessed at 1.5 million passengers, marks the extent of existing use rights enjoyed by BCA.*

*The Agreement is not time limited, and is binding on successors in title. It confirms the operational constraints agreed at the Harbour Plan Inquiry. It restricts the airport to 38,000 air transport movements in any twelve month period. It also prevents the operators from offering for sale on schedule flights from the airport more than 1.5 million seats in any period of twelve months. This 'offer for sale' control is based on what is accepted as normal average seat occupancy of 50%. That, of course, takes us back to the 1.5 million passenger throughout capacity of the terminal building as assessed at the Harbour Local Plan Public Inquiry.*

*The number of air transport movements was set at 38,000 on the basis that this was consistent with the accepted terminal capacity and the character of present airline operations. This together with the 'offer for sale' control is regarded as offering some working flexibility to the operators, while providing a basis for overall control by the Department, and regular monitoring by the Airport Forum."*

In reading this departmental briefing and the report of the Public Inquiry into the 1990- 2005 Belfast harbour Local plan by Commissioner FJ Warke paragraph 5.2.28 (ii), it is quite clear that the basis of the original planning agreement was the extent of existing use rights established at that Inquiry. This was based on a perceived Terminal capacity of 1.5m PAX (ie the annual total of departing AND arriving passengers). Somehow this was erroneously translated into 1.5m seats for sale FROM the airport which is not the same parameter. Load factors in UK / Irish airlines (ie the percentage number of seats sold of those made available) currently vary between 72% and approx 82% which means that the planning agreement passenger throughput limits are currently somewhere between 2.16m and 2.46 m PAX in real terms.

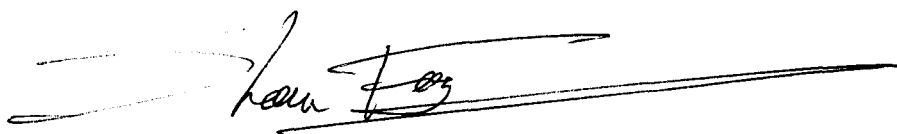
In 1997, the Planning Agreement was varied between the parties, without public consultation, to increase the Air Traffic Movements (ATM's) from 38,000 to 45,000 per annum on the basis that the 'seats for sale' limit was retained but the small aircraft types used by the airlines would allow more ATM's within the 'seats for sale' restriction.

The current submission from BCA now seems to be using the increase in aircraft size as their reason for requesting removal of the 'seats for sale' restriction while retaining the now larger ATM's parameter.

It is clear from the original Public Inquiry Report that the 'existing use rights' of the airport were considered carefully in relation to the environmental effects on the neighbourhood and beyond. It is therefore essential to ensure that the amenity of the city and surrounding areas affected by any increase in the limiting factors is safeguarded satisfactorily by a fully transparent investigation.

There is a danger of a perception of 'planning by stealth' if the process is not subject to a Public Inquiry in the circumstances.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Shaun Ferguson', written over a horizontal line.

Shaun Ferguson  
MAP Architects & Town Planners