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Sent: 08 October 2022 18:45
To: tim.mills@rushmoor.gov.uk
Cc: 'Jules Crossley' <jules.crossley@rushmoor.gov.uk>; richard.ward@rushmoor.gov.uk;
John.thorne@rushmoor.gov.uk
Subject: Farnborough Airport's breaches of S106 agreement

Dear Tim,

The issue of scheduled flights being operated by Aero.com has been raised to the Farnborough Noise Group and this has resulted in a detailed review of the S106 agreement signed in 2010 and subsequent documentation such as the TAG Farnborough Airport Masterplan produced in 2009 and used in the 2014 consultation. There appear to be a number of breaches to the planning consent and I have detailed these below. Could you please investigate and provide a response to the apparent breaches.

1. The S106 agreement only allows the airport to operate “Business Aviation”. Farnborough Airport Ltd is in breach of this.

“Business Aviation” is defined in “Definitions and Interpretation” on Page 2 of the S106.

“Business Aviation” means flying activities and operations that are dedicated to the needs of companies individuals and organisations which require a premium priced service for a high degree of mobility a high standard of service and flexibility and privacy in aviation services. This definition excludes such activity in connection with

The 2009 TAG Farnborough Airport Masterplan also states that the airport is restricted to Business Aviation only.

1.1.6 The current use of the Airport is legally restricted to Business Aviation and use for bulk freight services, scheduled passenger services and 'inclusive tour' charter flying is specifically prohibited. TAG has no intention to seek to vary this position.

Later in the Masterplan, the document explains the nature if Business Aviation.

4.2 The Business Aviation Sector

4.2.1 Business Aviation is increasingly important to UK companies and international companies based in and trading with the UK. It enables business executives to travel on schedules that they have set in order to optimise the use of their time and resources. Business Aviation is used and preferred by companies over scheduled services, in particular where:

- time is important;
- complex itineraries over a short period of time are required;
- visits to and from provincial cities are necessary, which are not well served by commercial airlines;
- scheduled aircraft routes are inadequate;
- privacy is required; and
- additional security is necessary.

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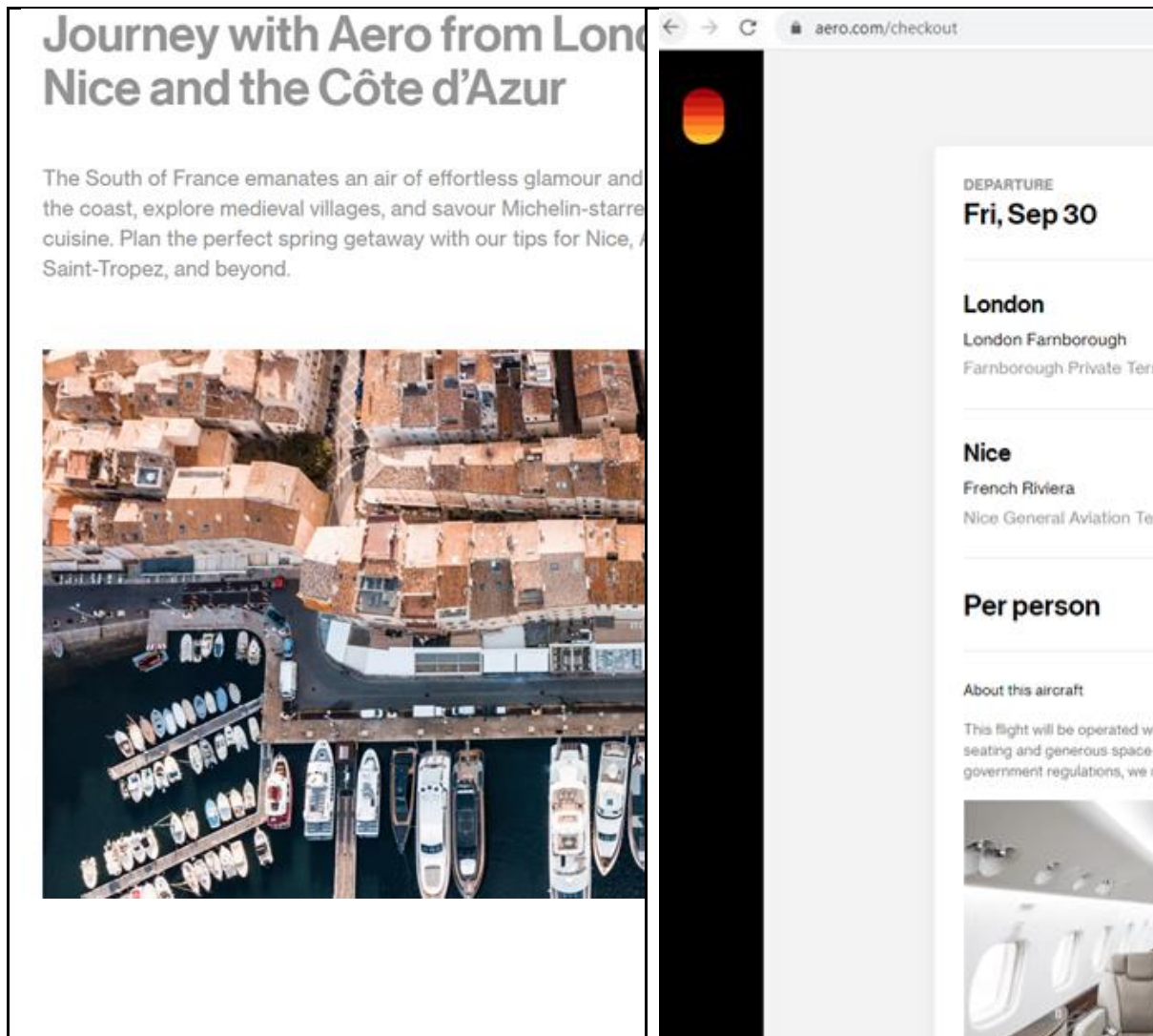
Economics and Forecasts

4.2.2 The route and timing of a Business Aviation flight is the decision of the user not the operator. This is in contrast to scheduled services. Users benefit from flexibility, choice and efficiency and this results in economic advantage.

4.2.3 Business Aviation is a distinct and important segment of the air transport market. It is a sector that has been growing strongly and the importance of which is recognised in the White Paper.

These documents (and others) specifically exclude “holiday travel” and exclude scheduled flights. However, a large number of flights are for recreational purposes and to locations that are not identifiable as “business locations” such as Ibiza, Nice, Palma, Bodrum, Calvi, Ajaccio, Canouan, etc. Furthermore, most of these locations are well served by regular and frequent scheduled commercial flights. The fact that the airport’s busiest months are June/July and September further support the view that a large number of flights are for holidays rather than business.

The airport only has a licence to operate charter flights and these are distinct from scheduled flights. Scheduled flights are flights available for the public to purchase tickets on an aircraft with a known departure time and date. The time of the flight is set by the operator, not the passenger. Farnborough Airport is operating scheduled flights in breach of this licence. For example, businesses such as Aero.com (and others) are selling tickets at scheduled departure times that are days, weeks and months in advance. Below is an example:



2. FAL is required to provide and maintain sound monitoring equipment under the S106 “Noise and Track Monitoring Scheme”.

- 2.3 The portable NMT (No. 1) does not form a part of routine noise monitoring scheme however is provided for ad-hoc monitoring in connection with trials of alternative Noise Abatement Procedures or in response to requests from groups or individuals in the surrounding community.
- 2.4 NMT's are subject to full maintenance checks, calibration and certificated on an annual basis.

Despite repeated requests during the past two years, the airport has refused to provide this monitoring equipment stating it has been “lost” or it is “broken” or it “needs calibration”. The airport is therefore in breach of this scheme. The availability of sound recording equipment is particularly important to the PIR as the CAA has restricted the scope of the PIR. The PIR is now halfway through and this issue was raised by Farnborough Noise Group with FAL/NATS at a meeting before the PIR started.

3. Complaints are not being managed in line with the S106 complaints procedure.

The S106 agreement specifies the way that complaints should be handled.

9. COMPLAINTS

9.1 A record of all complaints received regarding the Site shall be kept including the name address contact details of the complainant and detail of the complaint regarding noise air quality odour Track keeping (including varying from preferred noise routes) and alleged vortex damage. A record shall also be kept of the response in terms of its timing details as to the cause(s) of the complaint and the action taken if any to remedy the situation.

4. Response

- On completion of investigations a full response is made to the complainant by telephone call, email or postal letter as appropriate.
- Details of all findings are reported together with appropriate supporting documents i.e. identified track maps.
- All written responses are produced with the aim of addressing the specific complaint of the individual though may contain portions of standard or pre-prepared information.
- Responses concerning identified infringements of procedure contain full details of action taken with respect to aircraft operators
- TAG aims to provide a response to all complainants within 10 working days though investigations requiring playback of Air Traffic Control Radio Telephony Tapes may take longer.
- The type and date of each response is recorded on the complaints database.
- Copies of all written responses are kept in TAG files and used in reference when responding to complainants on multiple occasions.

The majority of complaints submitted to the airport receive nothing more than a receipt confirmation. Of the complaints I have submitted in the past six months, none have provided any explanation or reason or action taken to remedy the situation. I understand that the airport is receiving a large number of complaints and that is indicative of the public's view of the airport's operations and the airspace changes. However, this doesn't absolve the airport of its obligations. There have been repeated requests of the CAA, FAL and NATS to provide more information and to explain to the public exactly what constitutes an "acceptable" flight as approximately 20 flights each day breach the defined flightpaths. If these breaches are due to "reasons of safety", the airport should not be operating. If the flightpaths are not followed or if air traffic control is instructing flights not to follow the prescribed flightpaths, there is clearly no reason to have them or to have the controlled airspace.

- 1.5 Compliance with the preferred noise routes and tolerance limits shall be enforced by the Company except for those instances when aircraft are required by air traffic control to deviate from the preferred routing for reasons of safety.

4. The Air Quality Monitoring Scheme is set out in the S106 agreement (below). Its stated intention is to understand the impact of business aviation on local air quality.

Air Quality Monitoring Scheme
TAG Farnborough Airport

1. Introduction

1.1 As a part of the TAG Farnborough Airport Master Plan 2009 TAG is committed to continued study of the impacts of business aviation at the Airport on local air quality, with due regard to the TAG Farnborough Airport Section 106 Agreement. This document outlines the scope of this scheme on the impacts of air quality from airport sources on local residents.

2. Aims

2.1 The aim of the scheme is to report air quality and understand issues that may occur as a result of airport operations through monitoring and recording around the Airport.

When the S106 agreement was signed in 2010, it would not have been known at that time that other pollution such as particulates (PM2.5 and PM10) would be harmful to health, nor what the “safe” levels of NOx are. Since 2010, courts have clarified the harm and the responsibilities of authorities regarding pollution and health (e.g. Ella Kissi-Debrah. <https://www.theguardian.com/environment/2020/dec/16/girls-death-contributed-to-by-air-pollution-coroner-rules-in-landmark-case>) and the World Health Organisation has reduced the “safe” levels of pollution. In the future, with legislation from The Environment Act 2021, local authorities will be responsible for airborne pollution and the requirements of this are significantly greater than the current pollution monitoring. If the statement in the S106 agreement is complied with, the scheme should be modified so that it actually does assess “the impacts of air quality from airport sources on local residents”. The pollution levels and the pollution components measured by the monitoring stations around the airport are no longer appropriate and in order to achieve the objectives set out in the Air Quality Monitoring Scheme, they should be reviewed as part of the PIR.

Farnborough Noise Group requests that Rushmoor Borough Council investigates these planning breaches and that the PIR is halted until the breaches are resolved.

Regards,

Colin Shearn,
Chair - Farnborough Noise Group