

SECTION 131 FORM

Appeal NO: ABP-314485-22Defer Re O/H ☐

TO: SEO

Having considered the contents of the submission received 17/10/22 fromDAA I recommend that section 131 of the Planning and Development Act, 2000be not be invoked at this stage for the following reason(s): No new issues raisedE.O.: [Signature]Date: 19/10/22

To EO: _____

Section 131 not to be invoked at this stage. ☐Section 131 to be invoked – allow 2/4 weeks for reply. ☐

S.E.O.: _____

Date: _____

S.A.O.: _____

Date: _____

M _____

Please prepare BP _____ - Section 131 notice enclosing a copy of the attached submission

to: _____ Task No: _____

Allow 2/3/4 weeks – BP _____

EO: _____

Date: _____

AA: _____

Date: _____

CORRESPONDENCE FORM

File With

From: Sent:

Appeal No: ABP-314485-22

M s McCormack

Please treat correspondence received on 17/10/22 as follows:

- | | |
|--|--|
| 1. Update database with new agent for Applicant/Appellant _____
2. Acknowledge with BP <u>20</u>
3. Keep copy of Board's Letter <input type="checkbox"/> | 1. RETURN TO SENDER with BP _____
2. Keep Envelope: <input type="checkbox"/>
3. Keep Copy of Board's letter <input type="checkbox"/> |
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Amendments/Comments

DAA response to Teresa Kavanagh appeal

4. Attach to file

- | | |
|---|---|
| (a) R/S <input type="checkbox"/> | (d) Screening <input type="checkbox"/> |
| (b) GIS Processing <input type="checkbox"/> | (e) Inspectorate <input type="checkbox"/> |
| (c) Processing <input type="checkbox"/> | |

RETURN TO EO ☒

Carry

	Plans Date Stamped <input type="checkbox"/>
	Date Stamped Filled in <input type="checkbox"/>
EO: <i>Carry</i>	AA: <i>Pete</i>
Date: <i>18/10/22</i>	Date: <i>19/10/22</i>

Eoin O'Sullivan

From: Orla O'Callaghan <orlaoc@tpa.ie>
Sent: Monday 17 October 2022 12:39
To: Appeals2; Bord
Subject: First Party Response to Third Party Appeal - ABP Ref. PL06F.314485.
Attachments: First Party Response to Third Party Appeal ABP Ref. PL06F.314485 _Teresa Kavanagh_Final.pdf

Good Afternoon,

On behalf of daa plc, please find attached First Party Response to a Third-Party Appeal by Teresa Kavanagh against a Notification of a Decision to Grant Permission by Fingal County Council (FCC) dated 8th August 2022 (Fingal County Council Reg. Ref. F20A/0668 /ABP Ref. PL06F.314485).

Can you please confirm receipt of this First Party Response to the Appeal?

Regards,

Orla O'Callaghan
Senior Planner

Tom Phillips + Associates
Town Planning Consultants



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The Secretary
An Bord Pleanála
64 Marlborough Street
Dublin 1
D01 V902

17, October 2022
[By email - appeals@pleanala.ie]

Dear Sir/Madam,

Re: Proposed Relevant Action (S.34C of P&D Acts) to amend/replace operating restrictions set out in conditions no. 3(d) & no. 5 of the North Runway Planning Permission (ABP Ref. No.: PL06F.217429) as well as proposing new noise mitigation measures at Dublin Airport, Co. Dublin

**First Party Response to Third Party Appeal
ABP Ref. PL06F.314485; Fingal County Council Reg. Ref. F20A/0668.**

1.0 Introduction

daa plc have retained Tom Phillips + Associates¹ along with a multi-disciplinary team to prepare this First Party Response to a Third-Party Appeal by Teresa Kavanagh against a Notification of a Decision to Grant Permission by Fingal County Council (FCC) dated 8th August 2022.

2.0 Executive Summary

The appeal submitted by Teresa Kavanagh relates to a notice of decision by FCC to grant an application made on behalf of daa plc for a proposed development comprising the taking of a 'Relevant Action' only within the meaning of Section 34C of the Planning and Development Act 2000, as amended, at Dublin Airport, Co. Dublin. The proposed Relevant Action is to amend/replace operating restrictions set out in conditions no. 3(d) & no. 5 of the North Runway Planning Permission (ABP Ref. No.: PL06F.217429) as well as proposing new noise mitigation measures at Dublin Airport, Co. Dublin.

It is noted that some of the issues raised in this appeal are addressed in our client's First Party Response to a Third-Party appeal submitted by Saint Margaret's The Ward Residents Group (SMTWR). As such, we do not intend to respond to overlapping issues raised within this

¹ 80 Harcourt Street, Dublin 2, D02 F449.



appeal. Notwithstanding the aforementioned, we enclose a response to issues raised by Teresa Kavanagh in her appeal.

3.0 Appeal Context

This First Party Response on behalf of the applicant relates to an appeal by Teresa Kavanagh on a planning application FCC Reg. Ref. F20A/0668. FCC issued a notification to grant permission for the proposed application on the 8th August 2022 with 5 conditions attached.

The Appellant firstly raises issue with inaccurate planning application references in the planning application documentation stating that the planning decision should be voided.

The Appellant further raises concern with the Night Time Quota. The appeal considers the quota doesn't reflect existing noise and that as noise levels are divided over the year the impacts of individual high noise instances, peak noise events and noise frequency are diluted.

The Appellant states that it does not evaluate how aircraft emissions damage the health of communities. Reference is made to the WHO guidelines which recommend that noise should not exceed 40dB at night and it is stated that a more robust assessment of health impacts is needed to meet the requirements of SEA Directive (2001/42/EC). The Appeal considers that the health impacts of noise must be given greater weighting than ANCA gave them in their decision.

The Appeal conclusion questions the validity of the permission and states that conditions 3(d) and 5 as originally set out by ABP in PL06F.217429 should be upheld.

4.0 Response to Items Raised in Third Party Appeal

Teresa Kavanagh has raised several concerns in her appeal with regard to the proposed Relevant Action. This submission does not seek to re-iterate the detailed assessments that have been carried out as part of the application and we refer the Board particularly to the following assessments which have been prepared with the application and suitably respond to the issues raised by the Teresa Kavanagh in both their observation to FCC and their 3rd Party Submission to the Board:

- Dublin Airport North Runway Relevant Action Application – Revised Environmental Impact Assessment Report (EIAR), prepared by AECOM, dated September 2021.
- Dublin Airport North Runway Relevant Action Application – Revised EIAR Appendices.
- Planning Report, prepared by Tom Phillips + Associates, dated September 2021.
- Response to ANCA Direction 01 in relation to planning application F20A/0668, Aecom, September 2021 including appendices.
- A Technical Report 'A11267_19_RP035_4.0 NOISE INFORMATION – ANCA REQUEST FEBRUARY 2021', prepared by Bickerdike Allen Partners.
- Revised Regulation 598/2014 Assessment which Includes the following:
 - 'Dublin Airport North Runway Relevant Action Application, Regulation 598/2014 (Aircraft Noise Regulation) Assessment Non-Technical Summary'.
 - 'Dublin Airport North Runway, Regulation 598/2014 (Aircraft Noise Regulation) Forecast Without New Measures and Additional Measures Assessment Report' (Revision 2 – September 2021) Ricondo and Associates Inc.



- 'Dublin Airport North Runway, Regulation 598/2014 (Aircraft Noise Regulation) Cost Effectiveness Analysis Report' (Revision 2 – September 2021) Ricondo and Associates Inc.

What follows is an overview of the responses to the key grounds of appeal raised by the Appellant.

4.1 Incorrect Planning References

It is noted that there were some typographical errors and incorrect cross references in the documents submitted with the planning application. This issue was raised by Fingal County Council in the further information request. All relevant documents were updated and errors corrected in responding to the further information request. It is further noted that the correct reference numbers were cited in the readvertisement of the proposed development by the Applicant following the submission of the further information. It is submitted that the errors noted did not impact the assessment of the proposed development nor the review of the planning application by third parties as it was rectified at further information and readvertisement stage. Further the incorrect reference was to the amendment planning permission which does not specify the operating conditions which are sought to be amended and replaced.

With regard to typographical errors in the permission, we refer to Section 146(A)(1) of the Planning and Development Act 2000(as amended) which states:

"Subject to subsection (2) –

- a) A planning authority or the Board, as may be appropriate, may amend a planning permission granted by it, or*
- b) The Board may amend any decision made by it in performance of a function under or transferred by this Act or under any other enactment for the purposes of –*

- (i) Correcting any clerical error therein".*

Having regard to the above, there are no grounds for the voiding of the planning permission.

4.2 Concerns with Night Time Quota

It is fully recognised that a night-flight curfew that removes all flights from the night-period would, by definition, remove disturbance at night and the associated health effects. Both the applicant's and ANCA's assessments also indicated fewer affects with the permitted operation than all the other scenarios. However, the permitted operation (SC1) has also been shown to be the least cost-effective means to meet the NAO. daa proposed a Noise Quota Scheme (which has been modified by ANCA to cover the full night-period), an alternative runway operation scheme and a noise insulation scheme that is a more cost effective means for meeting the NAO. Further, through ANCA monitoring and reporting framework the effectiveness of these additional measures (on top of the existing measures) will be regularly reviewed and action taken under *section 21(4) of the Aircraft Noise (Dublin Airport) Regulation Act 2019* if it is deemed by the competent authority that the NAO is not being achieved.

Condition no. 3 of the decision issued by FCC states that *"the airport shall be subject to a Noise Quota Scheme (NQS) with an annual limit of 16,260 between 23:00 and 06:59 (inclusive, local time) with noise related limits on the aircraft permitted to operate at night"*.



In the early 1990s the Quota Count (QC) system was first introduced by the UK, as part of a new night restrictions scheme for London Heathrow, Gatwick and Stansted airports, and has been gradually followed by an increasing number European airports. The QC system relies on a count of aircraft movements (arrivals and departures) against a noise quota (in effect a noise budget), for each airport according to the QC rating. As such, the system allows a greater number of quieter aircraft movements within a given quota thereby encouraging the use of quieter aircraft at the airport.

The Regulatory Decision (RD) applies noise restriction from 23:00 hrs to 06:59hrs – the standard night time period. The RD also restricts night time flying of noisier aircraft types. The RD applies a noise quota to the full 8 hour night time period and further restricts the use of noisier aircraft at the airport. One effect of this is that a greater number of less noisy flights would be possible and this in turn may encourage fleet modernisation with quieter aircraft.

The noise quota schemes would allow Dublin Airport to meet its forecasts whilst ensuring noise exposure and health outcomes in 2025 and beyond would be better than those which occurred in 2019 in line with the Noise Abatement Objective (NAO) set for the airport.

The analysis presented throughout the ANCA Regulatory Decision Report shows that if Condition 5 is to be replaced to facilitate aircraft movements above the 65/night restriction set by Condition 5, then noise outcomes in terms of population Highly Annoyed and Highly Sleep Disturbed would be better than 2019 and would continue to improve over time. A restriction on noisy aircraft accompanies the NQS as it becomes effective as aircraft with Quota Count (QC) of 4.0 on take-off and 2.0 on landing will be restricted from operating at night.

The Noise Quota Scheme will limit the impact of aircraft noise at Dublin Airport on communities surrounding the airport in accordance with the NAO. ANCA's Cost Effectiveness Assessment (CEA) identified that while it reduced the population highly sleep disturbed and population exposed above the NAO night-time priority of 55 dB Lnight, condition 5 was not the most cost-effective means of achieving the NAO. Replacing Condition 5 with a Night-Time Noise Quota and associated aircraft type restrictions is a much more cost effective means of managing and limiting aircraft noise impacts in line with the NAO. It allows the airport to meet its movement forecasts whilst guarding against the Applicant's noise forecasts being optimistic with respect to fleet modernisation. For example, should the aircraft fleet mix not improve as forecast, the Night-Time Noise Quota will limit the number of night flights. Overall, the Night-Time Noise Quota will place a limit on night-time aircraft noise.

4.3 Assessment of Aircraft Emissions

The Appellant asserts that the Noise Quota Scheme does not evaluate aircraft emissions damage on the health of communities. The Noise Quota Scheme relates specifically to noise related impacts. However, aircraft emissions have been considered and assessed elsewhere in the planning application documentation.

We refer the Board to the Environmental Impact Assessment Report that was submitted to FCC in September 2021, in particular Chapter 7 Population and Human Health, Chapter 10 Air Quality and Chapter 11 Climate and Carbon which assess the impacts of aircraft emissions.



Chapter 7 of the EIAR states *"As set out in Chapter 10: Air Quality, for each Assessment Year (2022, 2025 and 2035) the proposed Relevant Action will not result in any significant change to the local air quality environment (NO₂, PM₁₀ and PM_{2.5}) or odour when comparing the Permitted and Proposed Scenarios. More specifically, the proposed Relevant Action will not result in air quality at any receptors being in breach of European standards or the Irish air quality upper limits under any of the Assessment Years (2022, 2025 and 2035). Therefore, there is little risk of any exceedance of the relevant environmental air quality thresholds applicable for the protection of human health"*.

Chapter 10 of the EIAR finds that the proposed Relevant Action is unlikely to generate any significant effects on air quality, with limited impacts predicted and total pollutant concentrations remaining well below the air quality standard values.

An assessment of the likely significant effects on greenhouse gas (GHG) emissions as a result of the proposed Relevant Action has been presented in Chapter 11: Climate and Carbon for each Assessment Year (2022, 2025 and 2035). It is concluded that *"the magnitude of effect of the greenhouse gas emissions impact of the proposed Relevant Action considering the receptor's sensitivity (global climate) will be minor, which is considered to be not significant"*.

Having regard to the above, it is considered that the impact of aircraft emissions on the health of communities has been adequately addressed in the planning application. The Planning Officers assessment concludes that *"it is considered that the subject of the Relevant Action application, as amended by and incorporating the Regulatory Decision, would not have unacceptable direct or indirect effects on the environment subject to the implementation to the mitigation measures and conditions"*.

4.4 WHO Guidelines

There appears to be a common misconception that no-one should be exposed to the WHO guideline noise values. They are guideline values, not a "must not expose" set of limits for outdoor noise. Through the planning process it is accepted that it not possible to have zero effects but assessment should identify where significant effects arise and mitigate accordingly consistent with the principles of sustainable development.

A Noise Abatement Objective (NAO) has been developed that clearly sets out that "limiting and reducing effects" are central and sets targets for reducing over the coming decade. The NAO uses criteria such as the number of people Highly Annoyed (HA) and Highly Sleep Disturbed (HSD). These criteria use the methodology described in the Environmental Noise Directive, based on the WHO Environmental Noise Guidelines 2018.

Alongside this, a noise insulation scheme has been proposed to mitigate the effects of aircraft noise, in particular reduce sleep disturbance and the Noise Quota Scheme has been set-up to control total aircraft noise output. In addition, monitoring and reporting will show progress against the targets and the regularity framework requires regular reporting on all of the measures and provides ANCA with powers to review the effectiveness of these measures.

4.5 Robust Assessment of Health Impacts was carried out

A robust assessment of the health impacts of the proposed development was carried out, both in the planning application and its assessment by ANCA and FCC.



We refer the Board in particular to Chapter 7 of the EIAR – Population and Human Health. This Chapter details the findings of the likely effects on population and human health as a result of the proposed Relevant Action.

Following receipt of the further information response including the revised EIAR as assessed by the internal consultees, the Planning Authority received direction in the form of a Regulatory Decision from ANCA, in a process which included a Strategic Environmental Assessment (SEA) environmental report. The SEA included consultation with Environmental Authorities as well as public consultation prior to finalisation of the SEA Statement and formal adoption of the Regulatory Decision and Noise Abatement Objective by Chief Executive Order.

The SEA states “WHO noise guidelines are more likely to be met with the NAO in place than without it, however the assessment case does allow for additional night flights to occur, which could adversely impact on people’s health. Meanwhile, air pollution impacts on people’s health in the immediate vicinity of the Airport may worsen but given the generally good air quality at present in the area, overall, the likelihood of compliance with air quality legislation as a result of implementing the NAO and RD is also high. Overall, impacts on human health as a result of implementing an NAO (and RD) which specifically targets health outcome improvements, but at the same time facilitates additional night flights, is expected to be mixed”.

The SEA of the NAO and RD concluded that “there would be no significant adverse environmental effects as a result of implementing the preferred alternative”.

It is submitted that a robust assessment of the health impacts of the proposed development was carried out in accordance with the SEA Directive.

5.0 Conclusion & Recommendations

As indicated in the above submission and the material submitted with the application, it is considered that the proposal as determined by the planning authority and competent authority (ANCA) is appropriate. The proposed Relevant Action is fully in compliance with multi-governmental strategic objectives and policies that seek to facilitate the growth of Dublin Airport and foster the airport’s connectiveness to the UK, Europe and wider global environment. By comparison, the permitted operating restrictions which this application seeks to amend/replace run contrary to these strategic objectives and policies.

The potential for impacts on local communities as a result of the proposed Relevant Action has been assessed in great detail through the course of preparing this application and subsequent response to FCC’s request for FI and ANCA’s Direction’s. In this regard, the proposed Relevant Action seeks to apply a balanced outcome. As a result, in addition to amending/replacing the above referenced operating restrictions the proposed Relevant Action also seeks to propose a preferential use of the runway system, a noise insulation grant scheme, a night noise quota system and a noise monitoring framework.

This package of measures will ensure that the overall noise effects of the proposed Relevant Action will not exceed the noise situation from 2018 or 2019. In this regard the proposed Relevant Action is fully in accordance with the proper planning and sustainable development of the area and we respectfully request that Board not allow the appeal and direct permission to be issued without delay.

Yours Sincerely



Gavin Lawlor
Director
Tom Phillips + Associates

