

FROM DAVID JAMIESON MP
PARLIAMENTARY UNDER SECRETARY OF STATE

**Department
for Transport**

C A North Esq
Director, Devt. & Regeneration
NW Leicestershire DC
Council Offices
Coalville
LEICESTERSHIRE
LE67 3FJ

Department for Transport

Eland House
Bressenden Place
London SW1E 5DU

Tel: 020 7944 3000
Fax: 020 7944 4521
E-Mail: david.jamieson@dft.gsi.gov.uk

Web Site: www.dft.gov.uk

18 JUN 2002

Dear Mr North,

**S.78 AND 80 CIVIL AVIATION ACT 1982
EAST MIDLANDS AIRPORT: REQUEST FOR DESIGNATION**

You wrote to my predecessor, Chris Mullin, on 7 July 2000, recording your Council's Executive Board decision to ask that East Midlands Airport be designated for the purposes of s.78 of the Civil Aviation Act 1982, so that the Secretary of State might regulate the Airport by Notice under those powers in particular to reduce noise from aircraft operating at night.

I am writing to inform you that the Secretary of State has decided not so to designate East Midlands Airport.

The Government supports and enforces international noise certification standards for aircraft noise 'at source'. It is the Government's broad policy that control of nuisance due to operational noise from aircraft should, so far as practical, be determined locally. Where such controls are not forthcoming, the Secretary of State is nevertheless prepared to contemplate s.78 regulation.

Following your original request for designation, there have (as you know) been extensive discussions among interested parties. In particular, at my request, a group chaired by Cllr. Barrie Whyman was convened to explore the possibility of a locally agreed noise control scheme. I was disappointed that efforts towards an agreed scheme were in the event unsuccessful. Nevertheless, as you know, the Airport has produced its own enhanced noise control scheme. Your officers have commented on the details of an earlier draft of the scheme, and further on general aspects of the latest scheme; and the Secretary of State in reaching his decision has considered these comments as well as the scheme itself.



He has assumed that the scheme will be implemented in all material respects, unless more stringent controls be set for any particular element; and that the controls will be effectively monitored as planned. Should this not prove to be the case, this will in the Secretary of State's view constitute a material change of circumstance which may lead him to look again at the question of designation.

This should not inhibit the Airport's management or other parties from continuing to discuss the extent, stringency or effectiveness of the noise controls, through the independent consultative forum or elsewhere. I hope, too, that parties will not rule out the possibility of entering in future into formal agreements on noise control measures in the light of such discussions.

In your letter of 5 April 2002, you raise the relevance of the *Hatton* case. As you rightly point out, the decision in *Hatton* does not have effect until the appeal process is finally exhausted.

The Secretary of State has taken into account the fact that the current and projected aircraft noise at night in the vicinity of East Midlands Airport (whether assessed by L_{eq} contours or by equivalent quota count methods) is at the upper end of the range experienced and projected anywhere in the United Kingdom, and is likely to continue to be so assuming the Airport's contour limit is effective up to 2011. He has further taken into account the distribution and scale of centres of population exposed to aircraft noise; and your Authority's duty to have regard to the provisions of the Department's planning guidance, including PPG24 (Planning and Noise) in development planning and in determining applications for new noise-sensitive development.

The Secretary of State has taken account of the emerging status of East Midlands Airport as a strategic hub outside the South East for the distribution of express parcels and cargo, including time-critical items. In doing so, and notwithstanding representations made against designation by the Association of International Courier and Express Services (AICES), by their members based at EMA, by the East Midlands Development Agency, by BALPA, by the Ambassador of the United States and others, he readily acknowledges the difficulty of fully quantifying the economic importance of these activities.

In the light of the foregoing considerations the Secretary of State has also considered the recommendations of your Council's consultant, Rupert Taylor, and the local consultation which the Council undertook. The Secretary of State is mindful that night restrictions numerically more restrictive than those proposed by the Rupert Taylor report have been found after consultation to be appropriate at, for example, Heathrow Airport. However, he accepts that the circumstances at EMA are so different, both in terms of the population exposed to relatively high noise levels and of the core business of the airport, that the Rupert Taylor proposals would excessively constrain development of the airport, and would be liable to displace night operations to other locations where more extensive nuisance would result.

The Secretary of State has also noted the terms of the planning permission granted by NWLDC to DHL Aviation (UK) Ltd in August 1998 for a cargo terminal (intended for operations predominantly relating to night flights), and various ancillary works, and the Environmental Statement requested and submitted in support of the application on which this permission was based. The Secretary of State considers that this permission would

have been a relevant consideration in formulating a proposed notice under s.78, had he decided to designate. He has not, however, taken the view that the existence of this permission would in itself preclude the imposition of night restrictions of whatsoever stringency.

The Department intends shortly, as part of its preparations for the air transport White Paper, to issue a consultation document on airports and air services in the Midlands. This may elicit from consultees further information and further views on the economic outlook for the express parcels industry, nationally and at EMA specifically. However, the Secretary of State is satisfied from the information already available on the balance between noise controls and regional and national economic considerations that it would not be appropriate further to defer his decision on designation in order to await the outcome of that consultation. He is mindful also that further uncertainty over the designation decision (especially given the need for further specific consultation if the airport were to have been designated) could be unfairly detrimental to the interests of the Airport, its users and their employees.

Finally, I take this opportunity to urge the Airport, its Independent Consultative Forum and other relevant bodies to keep closely under review the noise controls at the airport with a view to minimizing the noise from legitimate aircraft operations there, and ensuring that opportunities arising from, for example, new technology, to reduce noise impacts, are appropriately exploited.

Copies of this letter go to David Taylor MP, to Mark Todd MP, to Graham Keddie (EMA) and to Cllr Barrie Whyman; and will also be sent to others who have made specific representations to the Department.

Yours
David Jamieson
DAVID JAMIESON