



## **FACT SHEET 8**

### ***Planning conditions and legal undertakings***

In many instances an officer of your Local Planning Authority (**LPA**) may never have encountered a GA related proposal before. Therefore it could be “easier” for him/her to refuse the application rather than undertake research into relevant conditions. This may result in an unnecessary appeal so you should be aware of the type of conditions that could be imposed in order to make a GA related proposal acceptable.

A key element to avoid an appeal (assuming that there is some encouragement for your proposal) is negotiation with the Authority to ensure that suggested conditions, or a legal agreement, are broadly acceptable and will not hamper the operation to such an extent as to make it unviable.

The following is a list of possible conditions that could be imposed by the LPA, or by an Inspector if the matter has gone to appeal:

1. **Temporary permissions**, usually for a minimum period of two to three years to gauge accurately the impact of an operation. (This may prove difficult for those needing to make long term investment but is sometimes the only way to appease local concern).
2. **Restrictions on the number of movements**. It is much better to have an annual limit (if this is being discussed), as opposed to a daily/weekly/monthly limit which is far less flexible and does not allow for the weather dependent nature of flying. Assuming a restriction on the number of movements per annum, it is helpful to allow for special events, such as “fly-ins”, which should be in addition to the maximum permitted total of movements.
3. **Restrictions on the number and times of “touch and go” movements**. This type of condition is less common as each element is usually just treated as one movement, so the overall figures need to take this element into account. The reason it is sometimes imposed is because such movements can be more intrusive on the locality. Normally they relate to flying schools and clubs.
4. **Restrictions on the number of days flying**. As above, it is much better to have an annual limit for example, 200 days per annum, as opposed to a daily/weekly/monthly limit as this builds in flexibility.
5. **Restrictions on times of take-offs and landings**. Some conditions restrict flying times, such as no flights between 2100 – 0730 hours. Some refer to one hour before sunrise and one hour after sunset. This is a better approach as it allows for seasonal variations and builds in flexibility. Bear in mind that allowance should be made for later landings for aircraft returning from other places, possibly business flights. The condition should always make an

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exception for emergency landings. Such a condition could also impose different hours of operation at weekends and Bank Holidays to suit local needs.

6. **Restrictions on aircraft type**, for example fixed wing aircraft only, would preclude the use of helicopters so be sure this will not cause future operating difficulties.

7. **Restrictions on engine type**, for example jets, piston-engines, turbo-prop etc. as relevant. Again, be certain that this will not cause future operating difficulties.

8. **Restrictions by maximum total permitted weight of an aircraft**. Officers of the LPA may need to have this explained. Imposition of such a condition is usually based on the belief that increased weight leads to increased noise. This is not always true. A weight limit may prevent a very quiet, slightly heavier aircraft replacing a lighter, noisier one. Such a condition therefore needs to be treated with caution.

9. **Restrictions on activities undertaken**, for example the site shall not be used for parachuting, public displays or as a flying school. It is also possible to restrict aerobatic activity within a specified distance of the airfield perimeter but only by reference to the take-off/landing of aircraft used for that purpose.

10. **Restriction on the number of aero-tow launches** per day and on the power of towing aircraft (in gliding cases). As with 8 above, more power does not necessarily mean more noise.

11. **Take-off and landing directions** to be controlled by reference to the preferred runway with restrictions on use of alternative runways except when wind, weather or other conditions make use of the other runway advisable on safety grounds.

12. **Restrictions on ancillary maintenance and storage**, for example within approved or existing buildings and hangars and subject to noise attenuation measures if deemed necessary.

13. **Log books to be kept on site** and made available for inspection on request and, insofar as it relates to environmental impact and not air safety, a manual to be agreed which sets out recommended flight paths, circuit patterns and other matters relating to the operational use of the aerodrome.

It should be stressed that this not an exhaustive list as different circumstances demand different approaches to ensure proper control over a proposed/existing operation.

Some conditions imposed, by both LPAs and Inspectors, do not achieve the desired effect. Such conditions may not be outside the law (“ultra vires”) but they could prove to be unnecessary or impractical to operate. Conditions 8 and 10 above are two examples.

Conditions preventing the operation of larger aircraft are often unnecessary. Runway length will effectively preclude such aircraft operating from a particular site as they have very different requirements to smaller aircraft. Longer runways can increase the types of aircraft able to use an aerodrome. However, some aircraft requiring a longer runway may actually be quicker in operation and cause less noise disturbance, by leaving the vicinity more promptly. Therefore, care needs to be taken to ensure that LPA officers appreciate this point.

In England and Wales Government advice (paragraph 12 of Appendix B to Circular 11/95) makes it clear that it would be unacceptable “to require that aircraft should only arrive or depart at an aerodrome on specified air traffic routes. This condition deals with an activity which is regulated by quite different statutory provisions and may well be unenforceable if the



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aerodrome operator is not responsible for air traffic control ..." Planning control does not extend to aircraft in flight.

When discussing conditions with the planning officer, you need to be aware of the implications of agreeing certain restrictions. It is all too easy to get carried away with the goal of achieving a planning permission at all costs but end up with it being so tightly regulated it becomes financially or operationally unviable.

### **Legal agreements**

Where the LPA is unable to secure reasonable restrictions on the use by condition only, it may enter into a planning agreement or obligation with the applicant, under S106 of the 1990 Planning Act. Consensus between both parties is essential. Several cases have emerged where airstrip owners have felt unable to sign agreements, usually for operational reasons. This has resulted in further time consuming negotiations.

The aerodrome/airstrip operator may also, on occasion, offer a unilateral undertaking to propose a solution to a problem not resolved by planning condition. This can be offered to the Authority or Inspector/Secretary of State. If it appears that the unilateral undertaking is acceptable, there is no need for a decision to be deferred until agreement is reached.

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England and Wales – Circular 11/95 available on:

[www.gov.uk/government/publications](http://www.gov.uk/government/publications)

Scotland – Circular 4/1998 and Addendum available on:

[www.scotland.gov.uk](http://www.scotland.gov.uk)

Northern Ireland – PPS1 available on:

[www.planningni.gov.uk](http://www.planningni.gov.uk)

For further information please contact the above address or go to [www.gaac.co.uk](http://www.gaac.co.uk)

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### **DISCLAIMER**

This advice is, of necessity, general in nature and for produced for guidance only so readers will need to adapt it to suit their individual circumstances. You would be well advised to seek professional advice in any matter of substance. Changes in planning law or Central Government advice may supersede some of the information contained in this Fact Sheet. You are advised to check with your Local Planning Authority and/or check whether an updated version of this advice has been published. The advice is given in good faith, based upon considerable experience, but the GAAC cannot be held liable for any adverse decisions received or for actions taken solely in reference to this document.

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