

Made on behalf of the Claimant  
Witness: Martin Barraud  
1<sup>st</sup> Statement of the Witness  
Exhibits: MB1  
Dated 4 March 2015

Case No. CO/1063/2015

IN THE HIGH COURT OF JUSTICE  
QUEEN'S BENCH DIVISION  
ADMINISTRATIVE COURT

In the matter of a claim for judicial review

B E T W E E N:

MARTIN BARRAUD

Claimant

-and-

CIVIL AVIATION AUTHORITY

Defendant

-and-

(1) SECRETARY OF STATE FOR TRANSPORT

(2) GATWICK AIRPORT LIMITED

Interested Parties

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FIRST WITNESS STATEMENT  
OF MARTIN BARRAUD

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I, Martin Barraud, [REDACTED]

[REDACTED] say as follows:

1. I am the Claimant in this claim for judicial review, and I make this witness statement in support of my claim.
2. Where anything I say is not within my own knowledge, I believe it is true as a result of information from the source indicated.
3. I have read the Statement of Facts and Grounds, and the facts it contains are true to the best of my knowledge and belief. I adopt the definitions used in the Statement of Facts and Grounds.
4. I now produce marked "MB1" copies of a set of documents relating to this claim. For ease of reference, page numbers in "MB1" are the same as page numbering in the claim bundle lodged with the court and I refer to them below in square brackets in the form [p.320] etc.

#### My involvement in relation to Gatwick Airport

5. My family and I live at Penshurst, just over 15 miles due east of Gatwick Airport and directly beneath one of the principal arrivals routes to Gatwick, which creates a "swathe" for aircraft approaching the airport. I refer to maps of the swathe in August 2010 (before the vectoring changes by Gatwick Air Traffic Control ("ATC") that are the subject of this claim) and in August 2014 when, it seems, the changes were in effect [p.314]. These maps were received as a result of FOI requests made by Cllr Richard Streatfeild in late 2014. I shall return to these maps later in the context of seeking to describe the relevant changes. My house is shown under the black spot on each map. I also exhibit extracts of the AIP for Gatwick which show the general layout of the arrivals flight paths from the south and south-east [p.316].
6. Penshurst lies some five miles to the north-west of Tunbridge Wells within the High Weald Area of Outstanding Natural Beauty ("AONB"). The character of the High Weald is described by the High Weald Joint Advisory Committee ("JAC") as having been established by the 14<sup>th</sup> century and that it

has survived major historical events and social and technological changes; that as a result the High Weald is considered to be one of the best surviving, coherent medieval landscapes in Northern Europe; and that the AONB is recognised to be an important visitor destination for the South East and where local authority policy encourages appropriate development of tourism and recreation. I exhibit the JAC description and a map of the High Weald AONB on an Ordnance Survey base [pp.318-322]. It can be seen from the AONB map that the arrivals route to Gatwick from the south passes directly over much of the AONB and effectively bisects it.

7. I am Chair of Gatwick Obviously Not.org (“GON”). GON was formed as an umbrella group to represent and give a voice to residents living in areas east of Gatwick Airport, particularly the Weald of Kent, who are affected by noise from overlying aircraft. Currently we have 1,974 people signed up to GON’s database who receive mailings and news items. Many of them copy GON in to email complaints or consultation responses to Gatwick Airport Limited (“GAL”). The GON Strategic Team has regular meetings to discuss strategy and represents the views of many others in the area.
  
8. I liaise regularly with other organisations that have an interest in aircraft movement and noise at Gatwick. I have become aware that what constitutes an “Airspace Change” is a matter of significant interest and debate in and around the Gatwick area, and indeed more widely. It would not be unfair to say that it is a matter of national interest in particular to those affected by aircraft noise from airports in the UK. It has not, as far as I am aware, previously been the subject of litigation or determination by the Courts. This judicial review claim is supported by a number of national, regional and local organisations which have the same interest as GON and as my family and me, including:
  - 8.1. The High Weald Councils Aviation Action Group (“HWCAAG”), a group of 11 District, Town and Parish Councils in the High Weald;

- 8.2. Gatwick Area Conservation Campaign (“GACC”): the oldest of the Gatwick representative groups (founded in 1968), members of which sit on the Gatwick Airport Consultative Committee (“GATCOM”), the independent statutory consultative body to GAL, established pursuant to s.35 of the Civil Aviation Act 1982;
- 8.3. AirportWatch, an umbrella organisation formed in 2000 which campaigns in relation to the environmental effects of aviation, and whose members and supporters include Aviation Environment Federation, Friends of the Earth, Greenpeace, the Campaign to Protect Rural England, WWF UK, the Campaign for Better Transport, the Woodland Trust, the World Development Movement, Action Aid, the National Trust and the Royal Society for the Protection of Birds;
- 8.4. East Sussex Communities for Control of Air Noise (“ESCCAN”), a group representing residents in East Sussex affected by overflying aircraft using Gatwick;
- 8.5. Communities Against Gatwick Noise and Emissions (“CAGNE”), a group of Sussex residents affected by aircraft noise at Gatwick;
- 8.6. Communities Against Gatwick Noise and Emissions – East (“CAGNE – East”), an offshoot of CAGNE established to represent the interests of those living to the east of Gatwick;
- 8.7. Pulborough Against Gatwick Noise and Emissions (“PAGNE”), a group of residents of Pulborough, West Sussex; and
- 8.8. Tunbridge Wells Action Group (“TWAG”), an action group for residents of Tunbridge Wells, Kent, which is increasingly being overflown by aircraft arriving at Gatwick.
9. I have letters of support from HWCAAG, CAGNE, CAGNE – East, GACC and PAGNE [p.491]. I know from the many telephone calls and emails that I

have received unsolicited that several other local action groups and many individual residents around the Gatwick area in particular, and more widely, also support the objectives of the judicial review, namely to secure the right to be consulted on changes to airspace routes that have caused significantly increased noise and disruption to their lives. These changes have been implemented without even an announcement, let alone proper consultation of local communities or an offer of compensation, and have been determined not to be an Airspace Change by the CAA within the meaning of the Civil Aviation (Air Navigation) Directions 2001 as amended in 2004 (“the 2001 Directions”).

#### Stabilisation trials at Gatwick Airport

10. This claim is concerned with aircraft arriving at Gatwick Airport from the south and south-east of the airport, which can be the majority of arrivals. Gatwick is a single-runway airport, but for aviation purposes it is considered as two different runways depending on the direction in which aircraft take off and land. If the wind is from the west, aircraft take off and land in a westerly direction: departing aircraft will take off heading west, and arriving aircraft will line up from the east to approach the airport, within the swathe of airspace I have mentioned above. When used in this direction, the runway is called Runway 26 (RWY26) because the heading the aircraft fly is approximately 260° magnetic. If the wind is from the east, aircraft take off and land in the opposite direction using Runway 08 (RWY08) or 80° magnetic. The prevailing wind is from the west, so ordinarily the split in runway usage is around 73% for RWY26 and 27% for RWY08 (as set out in GAL’s ‘London Airspace Change – Gatwick Local Area Consultation’ (May 2014) at paragraphs 3.2-3.5 [p.329]).

11. To the best of my knowledge and belief, there have been a number of consultations and trials between 2012 and 2014 with respect to aircraft routes at Gatwick. Not clear. What is clear, however, is that whatever took place in the past, the current situation seems to have become long-term or permanent sometime within 2014. I am still at a loss to know what has taken place, because although I have tried to find out I have not been provided with any

details by any of the bodies responsible, and I am only aware of the clear result of frequency of aircraft passing overhead

As at the date of this action we still do not know

12. There was a consultation in 2012/2013 with regard to departure routes from Gatwick, which led to an Airspace Change which the CAA approved in a Decision Letter dated 14 August 2013 and promulgated in November 2013. This did not affect the arrivals swathe for flights approaching Gatwick from the east (the subject of this claim), which remained a five-mile manoeuvring area between 7 and 12 nautical miles (approximately 8 to 14 statute miles) from the airport.
13. In May 2014, GAL began a consultation which among other things proposed a respite option for night-time arrivals traffic at Gatwick (see paragraphs 4.24-4.29 and 8.1-8.12 [pp.336-337 and 358-359]). The respite route was, however, offered on the implicit assumption of a significant reduction of the existing arrivals swathe to form a narrow pathway just one nautical mile in width. No consultation was undertaken, or offered, on this reduced swathe, which was referred to by many of those consulted on the respite route (although by not GAL itself) as a "superhighway". The implicit assumption that the arrivals swathe would be reduced in this way caused such an outcry that the respite consultation was withdrawn (and the proposals have not been implemented).
14. Nevertheless people were experiencing increased arrivals traffic, noise and disturbance. Complaints about noise at Gatwick increased from around 3,000 in 2013 to over 20,000 in 2014 because of increased frequency of overflying aircraft as a result of the changes described in further detail below (the precise facts of which remain unclear as they have not been published).
15. However GAL denied that any change to arrivals procedures had taken place. I have been sent by supporters copies of a number of letters which demonstrate what was said. By letter dated 15 July 2014 the Flight Performance Team at GAL informed one resident of Uckfield in East Sussex

that: "there have been no changes with regards to our arrivals procedures or routings into Gatwick Airport... although the number of aircraft has increased, the swathe in which they arrive at Gatwick is the same" [p.398].

16. Stewart Wingate (Chief Executive of GAL) wrote a letter dated 18 July 2014 to Charles Hendry, MP for Wealden [p.399], stating:

"... although the volume of traffic has increased, the routings that the aircraft are taking has remained the same... the impression may be that something has changed, although I can assure you nothing has".

17. On 18 August 2014, Jane Johnston (Head of Corporate Affairs at NATS) emailed Simon Byerley (a resident of Bidborough and a co-founder of CAGNE - East) [p.407] stating:

"There have been no changes to the use of airspace or to flight paths in the vicinity of Tunbridge Wells, Speldhurst, Penshurst or Hever (plus Crowborough and any other villages in the vicinity such as Bidborough).

You are seeing normal operations...

Gatwick has recently had a trial of a new departure route to the south west, which has now ended but did not affect airspace above you. There have been no other trials and therefore no change to operations east of the airport."

18. By letter dated 22 August 2014, Robert Goodwill MP (the Minister responsible for aviation matters at the DfT) informed Charles Hendry MP that: "I am not aware of any changes to airspace for aircraft arriving over Crowborough and the Wealden area into Gatwick Airport" [p.410].

19. On 28 August 2014 Mr Wingate sent an email to Steve Haysom (a resident of Chiddingstone, Kent) [p.412] in which he stated:

“... there have been no changes to the way in which aircraft are directed or handled on final approach to the airport. There has not been any trial of a ‘Superhighway’ on our westerly approaches and we are not planning any trials.”

20. We subsequently discovered that, directly contrary to what was being said to us by GAL, trialling of a new form of westerly arrivals had taken place at Gatwick in 2012 and 2013 [pp. 383 and 414]. The trials were of changes to the routing of aircraft approaching from the south and east by Gatwick ATC, resulting in them being concentrated on the westerly approach into Gatwick and over the High Weald. This had always been denied by GAL and the CAA at the time. Whilst we believed that something must have been going on (other than the usual variations for weather and seasons) to produce the significant changes in the frequency of overflying aircraft which we were experiencing, particularly in 2014, such changes had never been announced, they were denied by the airport operator GAL, and it was therefore impossible for us to work out what in fact was taking place.

21. In autumn 2014 the CAA continued to deny that any change had taken place in respect of aircraft arriving from the south and east. For example in an email to a Penshurst resident dated 8 September 2014 [p.416] the CAA stated:

“It is worth first explaining that the airborne traffic that you are experiencing above your home has been the norm for many years and has not changed since the 1970s... There has been no change to the airspace in your location.

... You may have heard local conversations regarding a Gatwick ‘Trial’ (ADNID trial), which was operating to the west of the airport. This trial did not affect villages and towns to the east of the airport and has now ended.”



22. Such was the concern that a number of people approached their local MPs to ask questions on their behalf to try to get to the bottom of what was going on. However MPs and councillors were also told that nothing had changed. By letter dated 20 October 2014 Richard Deakin (CEO of NATS) told Charles Hendry MP that: "I can confirm there have been no changes to airspace or flight paths serving Gatwick" [p.419].
23. On 11 November 2014, Councillor Streatfeild, (Chair of HWCAAG) sent the Secretary of State a letter informing him of the fact that many residents believed changes were taking place despite the assurances from GAL, the CAA and others that no change had taken place, and drawing his attention to the fact that changes were trialled at Gatwick in 2012 and 2013 [p.420]. Cllr Streatfeild asked the Secretary of State to intervene and to enforce the Airspace Change Process. The letter was copied to, among others, the CAA.
24. On 8 December 2014 a letter dated 5 December 2014 from Andrew Haines (Chief Executive of the CAA) was emailed to Cllr Streatfeild in response to his letter of 11 November [p.426]. As set out in the Statement of Facts and Grounds, Mr Haines for the first time admitted that Gatwick ATC had "tried out revised vectoring practices between the hold and landing at Gatwick" in respect of westerly arrivals, but he denied that these changes amounted to an "airspace change". Mr Haines's does not make clear what has taken place and whether this has now been made permanent.
25. On 19 December 2014 Cllr Streatfeild made a Freedom of Information Act 2000/Environmental Information Regulations 2004 request to the CAA on 19 December 2014 [p.431] (the "EIR Request") asking for correspondence between the CAA and NATS in relation to trials of new vectoring choices from 2012 onwards.
26. In the meantime, on 14 January 2015 I was copied into an email sent to Steve Haysom from Dame Deirdre Hutton (Chair of the CAA) [p.433]. As set out in the Statement of Facts and Grounds, Dame Deirdre stated that: "We have never denied that traffic has increased into Gatwick airport, or that there has

been a narrowing of the 'swathe'...". This was completely new news to me: neither the CAA nor anyone else had admitted before this that the swathe had been narrowed.

27. A further email from Dame Deirdre Hutton was sent to Mr Haysom on 27 January 2015 [p.435].

28. The CAA responded to Cllr Streatfeild's EIR Request on 4 February 2015 [p.437], attaching documents said to relate to "an Approach Stabilisation trial which took place in 2012 and a Night Noise Respite trial which took place in 2013". The CAA went on to say that:

"We have, however, withheld copies of NATS Temporary Operating Instructions (TOIs) which are internal procedures produced by NATS and provided to the CAA in accordance with a legal obligation under the Air Navigation Order 2009. The CAA has consulted NATS in relation to these documents, and they have made representations as to why they should not be disclosed which the CAA are currently considering. Once that has been concluded, I will write to you again in relation to these documents."

29. The CAA has not disclosed the TOIs.

30. The correspondence that was disclosed in response to the EIR Request reveals that:

30.1. The CAA approved NATS Gatwick to undertake an Approach Stabilisation trial in 2012 (email from CAA to NATS on 10 September 2012 at 10:10 [p.440]);

30.2. The trial took place from 18 to 30 September 2012 (see summary report [p.444]);

30.3. NATS emailed the CAA on 27 November 2012 stating the airlines were “keen for us to remove short cutting onto final approach and introduce this stabilisation technique permanently” (email from NATS to CAA on 27 November 2012 at 17:42 [p.442]). The NATS employee said that:

“As there is no change required to AIP, my intention would be to make Approach Stabilisation permanent via a longer term trial (no more than 6 months in duration) documentetd [*sic*] by ATC TOI and conducted from early 2013 (to encompass winter conditions and traffic levels) and then, assuming the results remain the same, make it permanent via ATC SI to MATS part 2.”

30.4. The CAA responded on 29 November 2012 simply stating that “DAP [i.e. Directorate of Airspace Policy] has no regulatory input with regard to this initiative, therefore just liaise with [REDACTED] as you have intimated you would do. Please keep us posted on your results” (email from CAA to NATS on 29 November 2012 at 13:07 [p.470]).

31. It appears that the approach stabilisation trials intended by NATS to be carried out in early 2013 were delayed, so that the trials took place in May-September 2013. At some date after this, which remains unclear, it appears that the changes were put into effect on a long-term or permanent basis, as Gatwick NATS said the airlines wanted this. Both the CAA and GAL have declined opportunities to confirm whether or not that the changes have now been implemented on a long-term or permanent basis, or the date on which a decision was made to implement in such a way. No consultation has taken place either on the trials or on a decision to make them permanent (if that is what has happened). I find myself at a loss to understand why this is so, as it clear that there has been a change in the use of airspace. It became clear that the CAA would not act without legal action being taken against them, so in February 2015 I instructed solicitors to send the CAA a Pre-Action Protocol Letter [p.200].

### Impact on local area

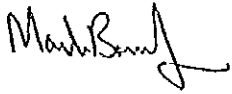
32. The noise impact of the changes has been dramatic. Traffic at Gatwick has continued to increase, and residents living under the narrowed swathe now experience that traffic not dispersed, as was the case before the changes, but concentrated within an area two nautical miles wide instead of five nautical miles wide. This reduction of 60% equates to an increase of at least 150% in the number of flights within the narrowed swathe.
33. The noise is now significantly greater than before the changes. Whilst it was intrusive before the changes took effect, the noise has now at times become intolerable because of the substantially increased frequency of aircraft passing overhead en route to land at Gatwick. When the wind is against us, my family and I can no longer enjoy even the partial tranquillity that we once enjoyed, in particular at peak summer times but also on many weekdays and weekends throughout the year, both at day and night and in the very early morning. Since Gatwick accepts flights all night, many people are sleep deprived. House prices have been devalued significantly. I exhibit a recent email sent to Mr Wingate of GAL by a resident of Chiddingstone, the next village to Penshurst, unsolicited and copied to me, which illustrates the effects that residents experience [p.490].
34. The effect of the narrowed swathe is also that the concentration of traffic has shifted to the east, which has resulted in significantly more aircraft overflying some of the most densely populated areas in or adjacent to the High Weald including Tunbridge Wells and Crowborough. It has also increased the impact on some of Kent's leading tourist attractions and heritage assets, including Hever Castle, Penshurst Place, Chiddingstone Castle and Chiddingstone Village (owned by the National Trust), as well as overflying of the central part of the High Weald AONB.
35. There is no doubt that there has recently been a significant change in the way westerly arrivals use the airspace above my property and those of other residents in the area under the flightpath, which is considerably narrower than previously. This is now, it seems, a permanent change from the way that aircraft approaching Gatwick previously. This has resulted in a significant

and detrimental effect on the environment and of the amenity of those residents who live under the flightpath, including that of my family and the many thousands of those who support this claim.

36. The many residents who support my Claim are, as I am, seeking consultation to take place on this Airspace Change so that we can put forward ways in which the hugely detrimental effects can be mitigated or avoided, as would in normal circumstances follow a properly conducted trial according to the Airspace Change Process. The CAA would then be able to reach a considered conclusion on the changes, properly informed by all the evidence including that from residents and others on the ground, as well as from representative bodies, persons including MPs and from local authorities. The CAA would be able to obtain evidence as a result of a proper assessment of the noise and other impacts of the changes, and to balance this against perceived benefits, before making an appropriate recommendation to the Secretary of State for his approval. The residents most affected by the changes are entitled to put forward the view, on considered evidence and their own experience, that the burden of aircraft noise and disturbance should be shared more fairly across a dispersed area rather than it be concentrated, with far higher and at times wholly unacceptable impacts, on those who currently are made to suffer with no respite introduced.
37. We have never been given all the relevant facts and have not been given the opportunity properly to put forward our views to the CAA and Secretary of State on the effects and merits of this change. We have not had any proper opportunity to convince the CAA or Secretary of State that it should not take place or that it should be significantly mitigated or amended. Bypassing or refusing to carry out the consultation process which the 2001 Directions clearly require has deprived local residents of an opportunity to have their views properly and fairly considered. We find this totally unacceptable.
38. I respectfully ask the Court to grant permission for judicial review and the relief sought.

**Statement of Truth**

I believe that the facts and matters contained within this statement are true.

Signed: 

Date: 04, 03 - 15'