

High Court dismisses claim that RAF pilots flew over holiday park deliberately

A holiday park owner has failed to convince the High Court that RAF officers flew noisy planes over his property in a deliberate attempt to intimidate him.

In *Jones & Anor v Ministry of Defence* (<https://www.bailii.org/ew/cases/EWHC/QB/2021/2276.html>) [2021] EWHC 2276 (QB) HHJ Sephton dismissed a nuisance claim brought by Arthur and Rhian Jones over flights from RAF Mona in Anglesey.

Landmark Chambers, which acted for the Ministry of Defence, said in a commentary on the case that Mr and Mrs Jones had argued that a change in flight patterns and frequency occurred in 2007 and they had since suffered a nuisance or violation of their human rights under Article 8 of the ECHR.

HHJ Sephton though dismissed both the nuisance claim and the human rights claim, finding contrary to Mr Jones's evidence that no change had occurred in 2007 and that the evidence indicated that the noise of aircraft flying circuits, which went back several decades, was an established pattern of use that formed part of the locality.

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The couple had bought a site named Parc Cefni, which they intended to develop as a holiday and leisure park about a mile from the airfield.

After 2007 income from the venture dwindled and they decided in 2016 to sell, but have been unsuccessful in finding a buyer, they alleged because of intolerable noise from overflying aircraft.

In 2012 Mr Jones "renewed his allegation that his property was being specifically targeted [and] repeated that he was being victimised and persecuted", the judge noted.

Two senior RAF officers told the court that planes had been ordered to avoid overflying a children's nursery and the Jones's activity centre but not other buildings on the site.

HHJ Sephton said that far from the number of flights have risen since 2007, as Mr Jones claimed, "the figures show a steady decrease from almost 40,000 sorties in 2003 to around 5,000 sorties in 2018. In 2019 and 2020, the figures increase to around 11,000 sorties".

He added: "Mr Jones persisted in his assertion that the numbers had increased even when he knew that the RAF's official figures demonstrated that this was not so.

"The fact that Mr Jones persisted in an allegation which was plainly incorrect gave me cause to doubt whether I could rely upon Mr Jones's evidence generally."

He said fewer than 5% of flights overflowed Parc Cefni.

Several recordings of flights were played to the court and HHJ Sephton said he found it "extremely difficult to judge precisely what they show. I accept the evidence of Squadron Leader Stuchfield that judging the path and altitude of the aircraft from these recordings is difficult.

"I agree with his point that such a judgment is made more difficult because it is not always possible to tell from where the recordings were made and because of the inconsistent use of the zoom feature on Mr Jones's camera."

HHJ Sephton also rejected the allegation that pilots deliberately overflowed Parc Cefni to intimidate the couple.

"No such thing has happened," the judge said. "I accept the evidence that training flights are closely monitored by qualified flying instructors who would step in if there were any breach of the flying orders and debrief the pilot concerned.

"That Mr and Mrs Jones persisted in this implausible allegation gives me further cause to question the reliability of their evidence."

Giving his judgement, HHJ Sephton said it was plain that aircraft noise at Parc Cefni was annoying and disruptive, it was likely the Jones had as a result lost business and that the noise interferes with the use and enjoyment of the land.

But he said the flights had taken place for 70 years, had become a feature of the locality and considered the RAF had taken reasonable steps to mitigate the noise.

Dismissing the Jones' entire case, including the ECHR claim, HHJ Sephton said: "If an occupier of land has conducted an activity in a reasonable manner for many years, I do not consider it fair that a new neighbour who wishes to start doing something that is sensitive to the occupier's activity can complain that the activity in question will disrupt the sensitive use of his land that the neighbour wishes to introduce.

"The very loud noise of aircraft using RAF Mona has been part of everyday life in this part of Anglesey for about 70 years. Before Mr and Mrs Jones moved in to Parc Cefni, the noise there did not interfere with the enjoyment of the land, because the land was used for water supply and ancillary purposes."

Mark Smulian