



Ministry of Housing,
Communities &
Local Government



Department
for Transport

Miss Hannah Cox
Quod
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Our ref: APP/G5750/W/23/3326646
Your ref: 22/03045/VAR

19 August 2024

Dear Madam

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY LONDON CITY AIRPORT LIMITED
LONDON CITY AIRPORT, HARTMANN ROAD, SILVERTOWN, LONDON E16 2PX
APPLICATION REF: 22/03045/VAR**

This decision was made by the Secretary of State for Housing, Communities and Local Government and by the Secretary of State for Transport (the Secretaries of State)

1. I am directed by the Secretaries of State to say that consideration has been given to the report of Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC and Johanna Ayres BA (Hons) Solicitor, who held a public local inquiry which opened on 5 December 2023 and closed on 2 February 2024. The inquiry concerned your client's appeal against the decision of London Borough of Newham to refuse your client's application for planning permission for: Section 73 application to vary Conditions 2 (Approved documents), 8 (Aircraft Maintenance), 12 (Aircraft Stand Location), 17 (Aircraft Take-off and Land Times) 23, 25, 26 (Daily limits), 35 (Temporary Facilities), 42 (Terminal Opening Hours), 43 (Passengers) and 50 (Ground Running) to allow up to 9 million passengers per annum (currently limited to 6.5 million) arrivals and departures on Saturdays until 18.30 with up to 12 arrivals for a further hour during British Summer Time (currently allowed until 12.30), modifications to daily, weekend and other limits on flights and minor design changes, including to the forecourt and airfield layout attached to planning permission 13/01228/FUL allowed on appeal APP/G5750/W/15/3035673 dated 26th July 2016 which granted planning permission for; "Works to demolish existing buildings and structures and provide additional infrastructure and passenger facilities at London City Airport" in accordance with application Ref. 22/03045/VAR, dated 19 December 2022.
2. On 22 November 2023, the then Secretary of State for Levelling Up, Housing and Communities made a direction under section 266(1A) of the Town and Country Planning Act (TCPA) 1990 for a joint determination of the application.

Inspectors' recommendation and summary of the decision

3. The Inspectors recommended that the appeal be allowed and planning permission granted, subject to revised conditions that maintain the existing Saturday curfew period.
4. For the reasons given below, the Secretaries of State agree with the Inspectors' conclusions, and agree with their recommendation. They have decided to grant planning permission, subject to revised conditions that maintain the existing Saturday curfew period. The Inspectors' Report (IR) is attached. All references to paragraph numbers, unless otherwise stated, are to that report.

Environmental Statement

5. In reaching this position, the Secretaries of State have taken into account the updated Environmental Statement which was submitted under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. Having taken account of the Inspectors' comments at IR5.1 to 5.5, the Secretaries of State are satisfied that the Environmental Statement complies with the above Regulations and that sufficient information has been provided for them to assess the environmental impact of the proposal.

Procedural matters

6. In December 2023 a revised version of the National Planning Policy Framework ('the Framework') was published. The Inspectors consider in their comments at IR 1.8 that the revisions had no significant bearing on the appeal proposals. On 30 July 2024 the Written Ministerial Statement (WMS) 'Building the Homes we Need' (UIN HCWS48) was published. On that same date, the government launched a consultation to reform the existing Framework. The Secretaries of State do not consider that publication of the revised Framework, publication of the WMS and the consultation on the existing Framework raise any matters that would require them to refer back to the parties for further representations prior to reaching their decision on this appeal, and they are satisfied that no interests have thereby been prejudiced. A list of representations which have been received since the inquiry is at **Annex A**. The Secretaries of State are satisfied that the issues raised do not affect his decision, and no other new issues were raised in this correspondence to warrant further investigation or necessitate additional referrals back to parties. Copies of these letters may be obtained on request to the email address at the foot of the first page of this letter.

Policy and statutory considerations

7. In reaching their decision, the Secretaries of State have had regard to section 38(6) of the Planning and Compulsory Purchase Act (PCPA) 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
8. In this case the development plan consists of the London Plan 2021 (LP) adopted in March 2021 and Newham Local Plan 2018 (NLP) (IR6.1) adopted in December 2018. The Secretaries of State consider that relevant development plan policies include those set out at IR6.4 to 6.12.
9. Other material considerations which the Secretaries of State have taken into account include those set out at IR 6.13 to 6.42

Emerging plan

10. The emerging plan comprises the Newham Local Plan Review (IR6.2).
11. Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework. However, as there are no emerging policies owing to the very early stages of plan production, and as the emerging plan is not relied upon for the purposes of this decision, the Secretaries of State consider that no weight should be attributed to the emerging plan.

Main issues

Noise

12. For the reasons given at IR14.1 to IR14.12, the Secretaries of State agree with the Inspectors that there is more than sufficient material to assess whether the disputed conditions are reasonable and necessary as part of a s.73 application/appeal. In addition, they note the Inspectors' approach to the terms "curfew" and "respite" (IR14.21 to 14.25). For the reasons given in IR14.26 to IR14.50, the Secretaries of State agree with the Inspectors that; the Environmental Statement (ES) has been assessed on the best available data on this matter at the current time and is thus acceptable (IR14.33); that a degree of care and caution must be heeded in analysing the results relating to the Weekend Daytime Metric (IR14.40); and that while future work may have a place in noise modelling in the longer term, inputs into the noise modelling are broadly sound (IR14.50).
13. The Secretaries of State have carefully considered the Inspectors' analysis of the noise effects of the proposal at IR14.80 to 14.101 and the summary of findings at IR14.97. For the reason given at IR14.80 to 14.81 the Secretaries of State agree that the additional early morning flights, which would increase the total flights from 6 to 9, would cause no harm in terms of noise effects and any additional effects at that time would be mitigated in terms of the use of quieter aircraft for the 3 additional flights, as well as the enhanced sound insulation scheme (SIS).
14. The Secretaries of State agree with the Inspectors at 14.85 and 14.98 that while there is no technical evidence that is capable of supporting a conclusion that the amendments would give rise to significant noise effects, the metrics themselves are not aligned to the fact that the Airport has a curfew period and the results do not adequately encapsulate the impacts of the proposed change, which would eventually introduce 80 aircraft movements on a typical summer Saturday afternoon which would be equal to an average of one flight every 10 minutes (IR14.88). The Secretaries of State therefore, agree with the Inspectors that while it is not clear that the amendments would result in a significant noise effect, it is also not clear that they would not, and there is no reliable evidence to suggest that the changes would not be significant (IR 14.85). For the reasons given at IR14.91 to 14.93 the Secretaries of State also agree that the reduction in curfew would not facilitate a reduction in total noise effects.
15. The Secretaries of State agree with the Inspectors at IR14.100 and 14.101 that the removal of the Saturday afternoon curfew period as a mitigation measure under the City Airport Development Programme (CAPD1), approved by previous Secretary of State in

2016 and replacement with other alternative mitigation measures would not fully meet the external and environmental costs and they also agree therefore, that the application would be in conflict with LP Policy T8 (part B), Policy D13 (part C), NLP policies SP2 and SP8, the Framework (paragraph 191) as well as the Aviation Policy Framework (March 2013) (APF), Beyond the Horizon The future of aviation Making best use of existing runways (June 2018) (MBU), Airports National Policy Statement (June 2018) (ANPS) and Overarching Aviation Noise Policy Statement (March 2023) (OANPS). The Secretaries of State therefore give significant weight to the harm of the removal of the Saturday afternoon curfew period.

Need and Forecasting

16. The Secretaries of State agree for the reasons given at IR14.102 to 14.110, that the forecasts produced, having regard to the range of growth forecasts considered, are fit for purpose, and that long term growth in demand, whether for business or leisure, is likely to recover and continue to grow (IR14.133). In respect of re-fleeting, the Secretaries of State agree with the Inspectors for the reasons given in IR14.112 to 14.117, that while the extension to Saturday operating hours would increase the rate of re-fleeting, this would be necessary in any event (IR14.134), albeit it would occur at a slower rate.
17. For the reasons given at IR14.118 to 14.132, the Secretaries of State agree with the Inspectors that it would be possible over time for growth to reach 8.8mppa within the existing hours of operation, and that while the removal of the Saturday afternoon curfew and additional morning flights would encourage growth, they are not in themselves vital to unlock the potential for growth and to make best use (IR14.135). They further agree that it has not been demonstrated that there is an overriding public interest for the proposal in respect of meeting need, and the proposal would conflict with LP Policy T8 (part B) in this regard, as the general need for airport expansion could in principle be accommodated without the extension of hours on a Saturday (IR14.136). They therefore agree with the Inspectors that that the proposal would conflict with NLP Policy SP8 which expects development to achieve good neighbourliness and fairness from the outset by avoiding negative and maximising positive impacts.

Climate Change

18. The Secretaries of State note that the assessment approach in the ES uses 5 tests of significance, which is a widely adopted approach which has been used in a number of airport expansion proposals and endorsed by the High Court (IR14.149 to 14.150). They agree with the Inspectors for the reasons given at IR14.147 to 14.158 that with specific regard to climate change, the proposals would ensure compliance with national policy on this matter, including the Framework, APF, MBU, ANP, Flightpath to the Future (May 2022) and Jet Zero: Strategy for Net Zero Aviation by 2050 (July 2022), and there would be no conflict in terms of national and development plan policy, in particular with LP Policies T8 and GG6 on this matter. They further agree that The Mayor's 2030 target signifies a direction of travel for future London policy, but it does not currently have statutory weight as part of the LP and that aviation emissions are a matter which are controlled under other national control regimes (IR 14.157 to 14.158).

Socio - economic Benefits

19. For the reasons given at IR14.167 to 14.191, the Secretaries of State agree with the Inspectors at IR14.192 that the package of benefits is substantial, and that these benefits substantially weigh in favour of the proposed amendments to the conditions

(IR14.198). They further agree that the socio-economic benefits generated by the scheme would largely remain in the scenario whereby the existing curfew period is maintained (IR14.210). They agree with the Inspectors at IR14.176 that both the CADP1 and the current appeal proposals would generate benefits going forward and that there would also be a net increase from the proposed amendments due to the overall growth at the Airport. They also agree with the Inspectors at IR14.170 that there will be no tangible difference between the timing of the benefits against the timing of the harm from noise effects, with benefits and noise effects both gradually increasing as Saturday afternoon curfew slots being taken up gradually until 2031 when the Airport reaches 9mppa.

20. For the reasons given at IR14.177 to 14.181 the Secretaries of State note that there is not a standardised methodology to assessing displacement and there are inherent uncertainties associated with any assessment, but it is a temporary issue and should not be permanent. They agree that there is no detailed evidence that displacement would be harmful or undermine the benefits to a significant degree, and that the approach to assessing economic impacts in the ES does not weigh against the proposal.
21. For the reasons given at IR14.189 to 14.191 the Secretaries of State agree that the general benefits of the proposal would have different effects on different people and that some benefits would not affect certain groups, such as those who choose not to or are unable to fly. However, other benefits, such as job creation for residents in Newham, would not be a specific social benefit limited to future business or leisure passengers, but would be a benefit in the Borough.
22. With regard to the use of Department for Transport (DfT)'s Transport Analysis Guidance (WebTAG), the Secretaries of State note the strong encouragement in paragraph 5.10 of the ANPS, which would apply were the application for a Nationally Significant Infrastructure Project, and states that applicants "should assess the implications of airport expansion on surface access network capacity using the WebTAG methodology stipulated in the DfT guidance, or any successor to such methodology". They also note the Inspectors' observations that its main user is expected to be DfT, that a WebTAG appraisal is not routinely undertaken for applications for airport expansion and the extensive discussion during and after the Inquiry regarding the principle of its use, the methodology and the assessment outputs themselves (IR14.183 to 14.185). The Secretaries of State agree with the Inspectors at 14.187 to 14.188 that given the differences between the relevant parties, its use not being mandated and the ability of the Inspectors and the Secretaries of State to balance that harm against the benefits as part of the normal planning balance, that on this occasion it is not necessary not take WebTAG appraisal into account as a material consideration.

Other matters

23. For the reason given at IR14.137 to 14.145 the Secretaries of State agree with the Inspectors' conclusion at 14.146 that the operational air quality effects would not be significant in Environmental Impact Assessment terms and that with specific regard to air quality there would be no conflict in terms of national policy on this matter.
24. For the reasons given at IR14.160 to 14.163 the Secretaries of State agree that the current public transport provision would have the capacity to absorb additional demand associated with the proposed development (IR4.162).

Planning conditions

25. The Secretaries of State have had regard to the Inspectors' analysis at IR14.215 to 14.232, the recommended conditions set out at Annex E of the IR (which provide for the Saturday curfew to remain in place) and the reasons for them, and to national policy in paragraph 56 of the Framework and the relevant Guidance. They are satisfied that the conditions recommended by the Inspectors comply with the policy test set out at paragraph 56 of the Framework and that the conditions set out at **Annex B** should form part of their decision.

Planning obligations

26. The Secretaries of State have had regard to the Inspectors' analysis at IR14.233 to 14.263, the Deed of Variation (DoV) dated 26 January 2024, paragraph 57 of the Framework, the Guidance and the Community Infrastructure Levy (CIL) Regulations 2010, as amended. The Secretaries of State note that clause 2.5 of the Deed of Variation functions as a 'blue pencil clause', allowing provisions to be found invalid if necessary, without affecting the validity of the remaining provisions. For the reasons given at IR14.238 to 14.239, IR14.241 to 14.242, IR14.250, IR14.255, IR14.259 and IR14.262 to 14.263, they agree with the Inspectors' conclusion at IR14.263 and IR15.3, that with the exception of the changes to the Intermediate Tier Scheme to include extension of eligibility to dwellings within the 60 dB LAeq,16h summer weekend daytime contour under Schedules 8 and 9, and the enhanced contribution to the London City Airport Community Fund (LCACF) under Schedule 20, the obligation complies with Regulation 122 of the CIL Regulations 2010 and the tests at paragraph 57 of the Framework. The Secretaries of State note at IR14.255 the Inspectors' statement that the existing LCACF itself would remain secured.

Planning balance– application as submitted

27. For the reasons given above, the Secretaries of State consider that the appeal scheme as submitted is not in accordance with LP Policy T8 (part B) and D13 (part C); NLP policies SP2 and SP8 of the development plan, and is not in accordance with the development plan overall.

Planning balance and overall conclusion– retaining weekend curfew

28. However, for the reasons given above, the Secretaries of State consider that the appeal scheme without the variation to the Saturday afternoon curfew condition is in accordance with LP Policy T8 (part B) and D13 (part C); NLP policies SP2 and SP8 of the development plan, and is in accordance with the development plan overall. It is on this basis that they have gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in line with the development plan.

29. Weighing in favour of the proposal are social-economic benefits, which carry substantial weight.

30. Weighing against the proposal are noise effects on local amenity, which carry limited weight.

31. Transport, climate change and air quality are neutral in the planning balance.

32. Overall, in applying s.38(6) of the PCPA 2004, the Secretaries of State consider that the accordance with the development plan and the material considerations in this case indicate that permission should be granted.
33. The Secretaries of State therefore conclude that the appeal should be allowed, maintaining the full curfew period, while allowing other operational expansion at the Airport and grant planning permission on that basis.

Public Sector Equality Duty

34. In accordance with section 149 of the Equality Act 2010, due regard has been given to the need to (a) eliminate discrimination, harassment, victimisation; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The Secretaries of State have considered the protected characteristics of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. For the reason given at IR14.164 to 14.166, the Secretaries of State agree that the application would not have a material adverse effect on, or discriminate against, those with a protected characteristic.

Formal decision

35. Accordingly, for the reasons given above, the Secretaries of State agree with the Inspectors' recommendation. They hereby allow your client's appeal subject to the conditions set out in Annex B of this decision letter for Section 73 application to vary Conditions 2 (Approved documents), 8 (Aircraft Maintenance), 12 (Aircraft Stand Location), 17 (Aircraft Take-off and Land Times), 23, 25, 26 (Daily limits), 35 (Temporary Facilities), 42 (Terminal Opening Hours), 43 (Passengers) and 50 (Ground Running) to allow up to 9 million passengers per annum (currently limited to 6.5 million), arrivals and departures on Saturdays until 12.30, modifications to daily, weekend and other limits on flights and minor design changes, including to the forecourt and airfield layout attached to planning permission 13/01228/FUL allowed on appeal APP/G5750/W/15/3035673 dated 26th July 2016 which granted planning permission for; "Works to demolish existing buildings and structures and provide additional infrastructure and passenger facilities at London City Airport", in accordance with application ref 22/03045/VAR, dated 19 December 2022.
36. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the TCPA 1990.

Right to challenge the decision

37. A separate note is attached setting out the circumstances in which the validity of the Secretaries of States' decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the TCPA 1990.

38. A copy of this letter has been sent to London Borough of Newham and HACAN East, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Andrew Lynch

Natasha Kopala

Ministry of Housing, Communities
and Local Government

Department for Transport

Decision officers

This decision was made by the Secretary of State for Housing, Communities and Local Government, and signed on her behalf

AND

This decision was made by the Secretary of State for Transport, and signed on her behalf.

Annex A Schedule of Representations

General representations

Party	Date
Eleanor de Kanter	21 July 2024
Jackie Laidler	22 July 2024
Jeremy Cutler	22 July 2024
P J West	22 July 2024
Sarah Jane Regan	22 July 2024
T McKenzie	22 July 2024
Benedikt Humm	23 July 2024
Paula King	23 July 2024
Radul Radulov	02 August 2024
AIMCo, OTPP and OMERS	02 August 2024
Alistair Dow	04 August 2024
Kazuya Iwata	04 August 2024
Ivan Kotorov	07 August 2024
Rosemary Snelgar	07 August 2024
Lindesay Mace	07 August 2024
Marian Hoffman	07 August 2024
Abbey Boeckman	07 August 2024
Daniela Tilbrook	07 August 2024
Anna Lewis	07 August 2024
John Reid	07 August 2024
Kris Welch	07 August 2024
Yolanda Mitchell	07 August 2024
Anthony Lamb	07 August 2024
Simon Jones	07 August 2024
Christopher Hoare	07 August 2024
Hedvig Liliana	07 August 2024
Kaia Allen-Bevan	07 August 2024
Romane Lahille	07 August 2024
Clothilde Abel	07 August 2024
Claire Daniel	07 August 2024
Robin Li	07 August 2024
Marc Bettoni	07 August 2024
Dominique Cros	07 August 2024
Cohen	07 August 2024
Lynne Jones	07 August 2024
Mary DiGangi	07 August 2024
Amelia DPS CLIMATE ACTION	07 August 2024
Sébastien Aubin	07 August 2024
Ethan Wearn	07 August 2024
Caroline Hartnell	07 August 2024
Gill Slater	07 August 2024
Trey Taylor	07 August 2024
Kerry Thackaberry	07 August 2024
Robert May	07 August 2024
Imogen Walker	07 August 2024
Emily Tough	07 August 2024
Maddy Wade	07 August 2024
Carol Wilson	07 August 2024
Rita Reis	07 August 2024
Michael Clegg	07 August 2024
Hannah Morris	08 August 2024

Nigel Harvey	08 August 2024
Amanda Hawkes	08 August 2024
Ariel Sawicka	08 August 2024
Madeline Adams	08 August 2024
Marianne Sorrell	08 August 2024
Emi Matsuura	08 August 2024
Esther Wakelin-Stotten	08 August 2024
Gissele Weber	08 August 2024
John Ormiston	08 August 2024
Sarah Bonnot-Zuber	08 August 2024
Lee Martin	08 August 2024
Jan Sasak	08 August 2024
Judith Russenberger	08 August 2024
Cordelia Newsome	08 August 2024
Amanda Wright	08 August 2024
Niamh Bainbridge	08 August 2024
Jayne Forbes	08 August 2024
Sheila Freeman	08 August 2024
Mel Clarke	08 August 2024
Carol Dale	08 August 2024
Teresa van den Bosch	08 August 2024
Holly McGratten	08 August 2024
Lara Seemungal	08 August 2024
Florent Cuny	08 August 2024
Larch Maxey	08 August 2024
Susi Arnott	08 August 2024
Susan Williams	08 August 2024
Lorena Mejia	08 August 2024
Benoit Morel	08 August 2024
Fiona Berry	08 August 2024
Sacha Bonnet	08 August 2024
Kayla Willie	08 August 2024
Terri Trimble	08 August 2024
Hazel Addams	08 August 2024
Meredith Berg	08 August 2024
Samantha Miller	08 August 2024
Simon Drabbé	08 August 2024
Gabrielle Gabillat	08 August 2024
Ella-louise Grieve	08 August 2024
Gilles Stefani	08 August 2024
Ludmił	09 August 2024
Aurore Cabasse	09 August 2024
Lola Doumenge	09 August 2024
Jude Moore	09 August 2024
Taylor Schoenhofer	09 August 2024
Lily Whiteside	09 August 2024
Anna Pickles	09 August 2024
Marika Jungk	09 August 2024
Kat Outten	09 August 2024
Natalie Millar	11 August 2024
Anna Louise King	12 August 2024

Annex B List of conditions

1. Approved Drawings and Documents

The Development shall be carried out in accordance with the Approved Plans and the following documents:

- 1) Transport Assessment (December 2022)
- 2) Design and Access Statement (July 2013), as amended by Design and Access Addendum (March 2014),
- 3) Update to Design and Access Statement (September 2015) and Design Development Report (December 2022)

Reason: To ensure that the development is undertaken in accordance with the approved drawings and documents on which this decision is based.

2. Environmental Statement

The Development shall be carried out in accordance with the environmental standards, mitigation measures, requirements, recommendations and methods of implementing the Development contained in the Updated Environmental Statement and revisions, February 2016 as approved under 13/01228/FUL and the Environmental Statement dated December 2022 submitted with application 22/03045/VAR.

Reason: To ensure that the Development is carried out in accordance with the Updated Environmental Statement and revisions dated February 2016, and the Environmental Statement dated December 2022, and the mitigation measures proposed therein.

3. Construction Phasing Plan

Development shall only be carried out in accordance with the approved Construction Phasing Plan as approved under application 19/02619/AOD (dated 20 December 2019) or a revised Construction Phasing Plan which shall be submitted to and agreed in writing by the local planning authority.

Reason: To ensure that the development is constructed in accordance with the Updated Environmental Statement dated February 2016 and Environmental Statement dated December 2022.

4. Quantum of Development

In the event of there being any discrepancy between the figures as shown on the approved drawings and as set out in the approved documents listed in Condition 1, the figures specified in this condition shall prevail:

- a) the total quantum of development within the Western Terminal Extension shall not exceed 24,612 m² (including the Western Energy Centre, Western Terminal Extension, Terminal Building, Total Non-Airside Retail, Total Airside Retail, Terminal Non-Airside Offices and Service Yard);
- b) the total quantum of the Facilitating Works (comprising the Coaching Building,) shall not exceed 1,053 m²;
- c) the total quantum of development within the Eastern Terminal Extension shall not exceed 2 36,988 m² (including the Eastern Terminal Development, Total Non-Airside Retail, Total Airside Retail and Terminal Non-Airside Offices);
- d) the Eastern Energy Centre shall not exceed 527 m²;
- e) the Airfield Extension shall not exceed 7.54 hectares; and

- f) the Terminal Forecourt shall not exceed 17,890 m² (excluding Hartmann Road).

Reason: To ensure that the quantum of floorspace remains within the areas assessed pursuant to the Updated Environmental Statement dated February 2016 and Environmental Statement dated December 2022 for the development.

5. Noise Barrier Phasing

The development shall be carried out in accordance with plans A400-ATK-S-01-XXX-XX-DRXX-247-991 01 S2 (Temporary Noise Barrier General Arrangement Layout) and A400-ATK-- 01-XXX-XX-D-XX-247-992 01 S2 (Temporary Noise Barrier Plan and Elevations) as approved under reference 19/02620/AOD (dated 4 December 2019) unless alternative or amended noise barrier details are agreed in writing by the local planning authority.

The applied temporary mitigation shall be installed prior to the operation of the new or modified stands as shown on Plan P1 and retained until replaced by the permanent noise mitigation measure which shall be retained thereafter.

Reason: In line with the mitigation measures set out within the Updated Environmental Statement dated February 2016 and Environmental Statement dated December 2022 to protect the amenity of current and future occupants and neighbours

6. Restrictions on Use

Save to the extent mentioned below, the Airport shall only be used as an airport and for the provision of air services ancillary thereto and for no other purpose.

For the avoidance of doubt the Airport shall only be used for training or test flying where it is necessary for the safe and efficient operation of the Airport, the safety of aircraft using the Airport, or to ensure compliance with the conditions attached to this planning permission or other regulatory controls over the use of the Airport.

This condition shall not prevent:

- a) the take-off and landing of an aircraft where such training or test flying is carried out elsewhere; or
- b) monitored trial flights taking place for the purpose of Aircraft Categorisation or for the purpose of any Aircraft Categorisation Review; or
- c) pending completion of the development the lawful use of a part of the Airport for purposes unrelated to the provision of air services

Reason: To safeguard residential amenity from non-essential use of the Airport.

7. Aircraft Maintenance and Repair

Except in exceptional circumstances, no maintenance or repair work of aircraft and/or aircraft related machinery which causes noise that is audible at the Airport Boundary and/or at any Sensitive Receptor shall take place at the Airport other than between the hours of:

- 0630 and 2200 Monday to Friday inclusive;
- 0630 and 1230 on Saturday;
- 1230 and 2200 on Sunday; and
- 0900 and 2200 on Bank Holidays and Public Holidays.

All such activity outside the specified hours set out above causing noise that is audible at the Airport Boundary shall be reported to the local planning authority within 24 hours of occurrence.

Reason: To safeguard residential amenity from non-essential maintenance works and use of the Airport and to ensure that the Airport does not cause unacceptable

harm to the amenity of surrounding land and buildings, particularly given the Airport's proximity to Sensitive Receptor.

8. Restrictions on Development (Design Code)

No additional hard surface to that shown on Plan P4 (rev A) shall be constructed unless a noise report is submitted to the local planning authority confirming that the noise impacts arising from the proposed development will be no worse than those assessed in the Updated Environmental Statement, dated February 2016 and Environmental Statement, dated December 2022, at any of the nearest Sensitive Receptors outside the Airport Boundary.

Reason: To ensure that the development is undertaken in accordance with the approved drawings and documents and to ensure that the Airport does not cause unacceptable harm to the amenity of surrounding land and buildings

9. Restrictions on Development (Hard Surfaces)

No additional hard surface to that shown on Plan P4 (rev A) shall be constructed unless a noise report is submitted to the local planning authority confirming that the noise impacts arising from the proposed development will be no worse than those assessed in the Updated Environmental Statement, dated February 2016, and Environmental Statement dated December 2022 at any of the nearest Sensitive Receptors outside the Airport Boundary.

Reason: To ensure that the development is undertaken in accordance with the approved drawings and documents and to ensure that the Airport does not cause unacceptable harm to the amenity of surrounding land and buildings.

10. Restrictions on Development (Buildings)

Within the areas shown on Plan P5 prior to the erection, extension, alteration or change of use of a building, a noise report shall be submitted to the local planning authority confirming that the noise impacts arising from the proposed development will be no worse than those assessed in the Updated Environmental Statement, dated February 2016 and Environmental Statement dated December 2022 at any of the nearest Sensitive Receptors outside the Airport Boundary.

Reason: To ensure that the development is undertaken in accordance with the approved drawings and documents and to ensure that the Airport does not cause unacceptable harm to the amenity of surrounding land and buildings.

11. Number of Aircraft Stands and Position

The number of aircraft stands for scheduled Aircraft Movements shall not exceed 25 at any time and shall be located within the area shaded on Plan P4 (rev A).

Reason: To ensure that the development is undertaken in accordance with the approved drawings and documents and the Updated Environmental Statement, dated February 2016 and Environmental Statement dated December 2022; and to protect local amenity.

12. Runway Length

The length of the declared runway shall not exceed 1199 metres.

Reason: To ensure that the development is undertaken in accordance with the approved drawings and documents and the undertaken in accordance with the approved drawings and documents and the Updated Environmental Statement, dated February 2016 and Environmental Statement dated December 2022; and to protect local amenity

13. Aircraft

Except in cases of immediate emergency to an aircraft and/or the persons on board, only conventional take-off and landing fixed-wing aircraft, including short take-off and landing aircraft, but not vertical take-off and landing aircraft (including helicopters, tilt-rotor or gyrocopters), shall be permitted to use the Airport.

Reason: To control the development and ensure that it is undertaken in accordance with the approved drawings and documents and the Updated Environmental Statement, dated February 2016 and Environmental Statement dated December 2022; and to protect local amenity.

14. AVRO RJ100

No AVRO RJ100 type aircraft (or any variant thereof) shall operate from the Airport at any time unless it has been demonstrated to and approved in writing by the local planning authority that noise from such Aircraft does not exceed the maximum noise levels specified in any approved scheme under Condition 17.

Reason: To protect the amenity of current and future occupants and neighbours.

15. Prohibition on Recreational Flying

Except in cases of immediate emergency to an aircraft and/or the persons on board, the Airport shall not be used for any form of club or recreational flying.

Reason: To protect the amenity of current and future occupants and neighbours.

16. Aircraft Take-Off and Land Times

Except in cases of immediate emergency to an aircraft and/or the persons on board, the Airport shall not be used for the taking off or landing of aircraft at any time other than between the hours of:

- 0630 and 2200 on Monday to Friday inclusive;
- 0900 and 2200 on Bank Holidays and Public Holidays (with the exception of Christmas Day in condition 27);
- 0630 and 1230 on Saturdays; and
- 1230 and 2200 on Sundays;

provided that these restrictions shall not prevent an aircraft which was scheduled to take-off from or land at the Airport but which has suffered unavoidable operational delays, from taking off or landing at the Airport between 2200 hours and 2230 hours Sunday to Friday and 1230 hours to 1300 hours on Saturday and where that taking off or landing would not result in there being more than 400 Aircraft Movements at the Airport per calendar year outside the above permitted hours of operation comprising no more than 150 such movements in any consecutive three months.

Reason: In the interests of limiting the number of aircraft movements in order to protect the amenity of current and future occupants and neighbours.

17. Aircraft Noise Categorisation Scheme

The Airport shall be operated in accordance with the following documents as approved under reference 22/00807/AOD (dated 17 June 2022) and any review thereof that has been approved in writing by the local planning authority:

- i) 'Aircraft Noise Categorisation Scheme 2022 Update' (dated March 2022); and

- ii) ii) '2022 Review of Aircraft Noise Categorisation Scheme' (dated 22 March 2022);

No aircraft shall land at or take-off from the Airport unless the type of aircraft has first been categorised in accordance with the approved Aircraft Noise Categorisation Scheme.

Reason: In the interests of controlling aircraft movements in order to protect the amenity of current and future occupants and neighbours.

18. Review and Reporting on the Approved Aircraft Noise Categorisation Scheme

Following approval of the Aircraft Noise Categorisation Scheme approved pursuant to Condition 17:

- a) a report shall be submitted to the local planning authority annually on 1 June or the first working day thereafter as part of the Annual Performance Report on the performance and/or compliance with the approved Aircraft Noise Categorisation Scheme during the previous calendar year; and
- b) the approved Aircraft Noise Categorisation Scheme shall be reviewed not later than the 5th year after approval and every 5th year thereafter. The reviews shall be submitted to the local planning authority within 3 months of such review dates for written approval and implemented in accordance with an approved timeframe and maintained thereafter.

Reason: In the interests of controlling aircraft movements in order to protect the amenity of current and future occupants and neighbours.

19. Maximum Permitted Actual Aircraft Movements per hour as Timetabled

The scheduled number of Actual Aircraft Movements including business, commercial, charter and private Aircraft Movements shall not exceed 45 in total in any given hour.

Reason: In the interests of limiting the number of aircraft movements in the peak periods in order to protect the amenity of current and future occupants and neighbours.

20. Maximum Permitted Actual Aircraft Movements (day/year)

The number of Actual Aircraft Movements at the Airport shall not exceed:

- a) 100 per day on Saturdays
- b) 200 per day on Sundays but not exceeding 400 on any consecutive Saturday and Sunday;
- c) subject to (d) to (j) below 592 per day on weekdays; and
- d) 132 on 1 January;
- e) 164 on Good Friday;
- f) 198 on Easter Monday;
- g) 248 on the May Day Holiday;
- h) 230 on the late May Bank Holiday;
- i) 230 on the late August Bank Holiday;
- j) 100 on 26 December; and
- k) 111,000 per calendar year.

Reason: In the interests of limiting the number of aircraft movements in order to protect the amenity of current and future occupants and neighbours.

21. Maximum Permitted Actual Aircraft Movement on other Bank Holidays

In the event of there being a Bank Holiday or Public Holiday in England which falls upon or is proclaimed or declared upon a date not referred to in sub-paragraph (d) to (j) inclusive of Condition 20, the number of Aircraft Movements on that date shall not exceed 330 unless otherwise agreed in writing by the local planning authority but in any event shall not exceed 396.

Reason: In the interests of limiting the number of aircraft movements in order to safeguard the quality of life in the local area.

22. Maximum Permitted Actual Aircraft Movement limit between 0630 hours and 0659 hours on Mondays to Saturdays

The maximum number of Actual Aircraft Movements between 0630 and 0659 hours on Mondays to Saturdays (excluding Bank Holidays and Public Holidays when the Airport shall be closed for the use or operation of aircraft between these times) shall not exceed 9 on any day.

Reason: In the interests of limiting the number of aircraft movements and to protect the amenity of current and future occupants and neighbours.

23. Maximum Permitted Actual Aircraft Movement limit between 0630 hours and 0645 hours on Mondays to Saturdays

Notwithstanding the restriction on Actual Aircraft Movements between 0630 hours and 0659 hours, as set out by Condition 22, the total number of Actual Aircraft Movements in the period between 0630 hours and 0645 hours on Mondays to Saturdays (excluding Bank Holidays and Public Holidays when the Airport shall be closed for the use or operation of aircraft between these times), shall not exceed 4 on any day.

Reason: In the interests of limiting the number of aircraft movements and to protect the amenity of current and future occupants and neighbours.

24. Christmas Day Closure

The Airport shall be closed on Christmas Day each year for the use or operation or maintenance of aircraft or for passengers, with no Aircraft Movements and no Ground Running by aircraft engines.

Reason: In the interests of limiting the number of aircraft movements to protect the amenity of current and future occupants and neighbours.

25. Noise Management and Mitigation Strategy (NOMMS)

The Airport shall be operated in accordance with the 'Condition 31: Noise Management and Mitigation Strategy' dated August 2022 and '2022 Review of Noise Monitoring and Mitigation Strategy' dated 17 May 2022 approved under reference 22/02035/AOD (dated 27 September 2022) and any review under this condition.

A report shall be submitted to the local planning authority annually on 1 June (or the first working day thereafter) as part of the Annual Performance Report on the performance and compliance with the approved NOMMS during the previous 12 month period.

The approved NOMMS shall be reviewed not later than the 5th year after approval and every 5th year thereafter. The reviews shall be submitted to the local planning authority within 3 months of such review dates for approval in writing and implemented as so approved.

Every NOMMS review shall include, but not be limited to:

- Combined Noise and Track Monitoring System;

- Quiet Operating Procedures;
- Penalties and Incentives;
- Control of Ground Noise;
- Airport Consultative Committee;
- Annual Noise Contours;
- Integrity of NOMMS;
- Auxiliary Power Units;
- Reverse Thrust; and
- Sound Insulation Scheme.

Reason: In the interests of limiting noise and to protect the amenity of current and future occupants and neighbours.

26. Additional Noise Monitoring Terminals

The noise monitoring terminals 1 to 6 inclusive as shown on Plan P6 (or in the form of such alternative equipment and/or locations as are submitted to and approved in writing by the local planning authority) shall remain in place and operational.

Reason: To ensure that adequate terminals are in place to monitor noise in the interests of residential amenity.

27. Fixing the Size of the Noise Contour

The area enclosed by the 57dB $L_{Aeq\ 16hr}$ Contour shall not exceed 9.1 km² when calculated by the Federal Aviation Authority Integrated Noise Model Version 7 or later version.

The Airport shall be operated in accordance with the 'Noise Contour Strategy 2022' document dated 20 October 2022 approved under reference 22/02528/AOD (dated 24 January 2023). The approved Noise Contour Strategy to reduce the Contour area by 2030 shall be reviewed not later than the 5th year after approval and every 5th year thereafter in order to seek further reductions in the size of the Noise Contour by 2030 and beyond. The reviews shall be submitted to the local planning authority for approval in writing within 3 months of such review dates and implemented as approved.

The area enclosed by the 57dB $L_{Aeq\ 16hr}$ Contour shall not exceed 7.2 km² when calculated by the Federal Aviation Authority Integrated Noise Model Version 7 or later version, from the time that the passenger throughput of the Airport first reaches 9 million passengers in any twelve month period.

Reason: To ensure that the development is constructed in accordance with the Updated Environmental Statement dated February 2016 and Environmental Statement dated December 2022.

28. Design

No building within the development hereby approved shall be constructed until details and samples of the materials to be used in the external elevations, fenestrations and roofs of the building(s) and Noise Barriers have been submitted to and approved in writing by the local planning authority.

The details submitted shall be to a scale agreed with the local planning authority in writing prior to submission. The development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory standard of external appearance, protect local amenity

29. The Temporary Facilities

The temporary coaching facility and the temporary outbound baggage extension as shown on the Temporary Facilities Drawings shall cease to operate and shall be removed in

accordance with the details approved in the Construction Phasing Plan approved pursuant to Condition 3.

Reason: To safeguard amenity and visual appearance, as the temporary structures are not of sufficient design quality to be retained on a permanent basis.

30. Landscape

The development shall be carried out in accordance with the 'Condition 36 Landscape' document dated December 2018 as approved under reference 18/03472/AOD (dated 23 January 2019) and the updates within Appendix 2 of the covering letter dated 17 September 2019 approved under reference 19/02559/AOD (dated 20 December 2019) unless an alternative or amended landscaping scheme is agreed in writing by the local planning authority.

Each submitted landscape scheme shall be in accordance with the Landscape Drawings.

All landscaping schemes and all planting shall make such planting unattractive to birds so as not to have an adverse effect on the safety of operations at London City Airport by encouraging bird roosting and creating sources of food for birds, and thereby preventing a bird strike threat to aircraft operating at the Airport.

Within one month of the completion of the landscaping scheme for a relevant Phase written confirmation of the completion date shall be submitted to the local planning authority. The scheme as approved shall be implemented in full within the first planting season following completion of each of the agreed Phases within the construction phasing plan agreed pursuant to Condition 3.

If any tree or shrub is removed, uprooted or destroyed or dies, or becomes in the opinion of the local planning authority, damaged, diseased or defective, another tree or shrub of the same species and size as that originally planted shall be replanted in the same location or as otherwise detailed in the scheme.

Reason: To ensure a satisfactory standard of external appearance of the development and in the interest of the safe operation of London City Airport.

31. Dockside Access

The taxi feeder park and car parks hereby approved shall not be brought into use unless and until measures to create and retain the pedestrian access along the Dock Edge (south of King George V Dock) and a programme for the implementation of these measures have first been submitted to the local planning authority for approval in writing. The measures shall be completed in accordance with the approved details and programme. The pedestrian access shall be retained thereafter.

Reason: For the purposes of good design and to improve connectivity and access around the Royal Docks.

32. Details of Screening of Plant

The development shall be carried out in accordance with the 'Condition 38: Plant Screening Version 2' document dated December 2018 as approved under reference 18/03472/AOD (dated 23 January 2019) and the updates within Appendix 2 of the covering letter dated 17 September 2019 approved under reference 19/02559/AOD (dated 20 December 2019) unless an alternative or amended screen strategy is agreed in writing with the local planning authority.

No part of a relevant Phase shall be brought into use until the plant screening strategy for that Phase as approved has been implemented. The approved plant screening strategy for that Phase shall be retained thereafter.

Reason: To ensure a satisfactory form of external appearance and in the interest of the amenity of neighbouring properties and the area

33. Contamination

Each Phase of the development shall be carried out in accordance with the 'Condition 39: Contamination' document dated March 2018 as approved under reference 18/00671/AOD (dated 13 July 2018) and the updates within Appendix 2 of the covering letter dated 17 September 2019 approved under reference 19/02559/AOD (dated 20 December 2019) unless an alternative or amended report is agreed in writing with the local planning authority.

Upon commencement of each Phase the approved remediation strategy for that Phase shall be implemented.

If, during the development of a Phase, contamination not previously identified is found to be present within that Phase then no further development in the areas where contamination is identified shall be carried out until a further remediation strategy has been submitted to the local planning authority for approval in writing, detailing how this unsuspected contamination shall be dealt with.

The further remediation strategy shall be implemented as approved.

As soon as reasonably practicable, and before the occupation of any remediated area forming part of a Phase, a validation report shall be submitted to the local planning authority for approval in writing, stating what works were undertaken and that the remedial scheme was completed in accordance with the approved remediation strategy for that Phase.

Reason: To safeguard the public, the environment and surface and ground water, as this site may have or is known to have been used in the past for activities that are likely to have resulted in it being contaminated with material that is potentially harmful to humans or the environment.

34. Crime Prevention Strategy

The approved development shall be carried out in accordance with the 'Condition 40: Crime Prevention Strategy' document dated March 2017 as approved under reference 17/00947/AOD (dated 24 April 2017) unless an alternative or amended Crime Prevention Strategy is agreed in writing with the local planning authority.

Reason: In the interest of amenity and creating safer, sustainable communities and with regard to policy 7.13 of the London Plan (consolidated with alterations Since 2011 and published March 2015), and policy SP3 of the Newham Core Strategy (adopted 26 January 2012).

35. External Lighting

The approved development shall be carried out in accordance with the 'Condition 41 – External Lighting, Version 2' document dated April 2018 as approved under reference 18/01029/AOD (dated 13 July 2018) and the updates within Appendix 2 of the covering letter dated 17 September 2019 approved under reference 19/02559/AOD (dated 20 December 2019) unless an alternative or amended external lighting scheme is agreed in writing by the local planning authority.

The approved lighting scheme(s) shall be implemented prior to occupation of the relevant Phase of the development and shall be permanently retained thereafter.

Reason: To ensure that safety is not compromised with regard to the principles/practices of Secured by Design; to minimise adverse impacts of light pollution on the

highway network; to 10 minimise adverse impacts on the safeguarded area around London City Airport; to ensure that it does not cause a hazard to navigation of the Royal Albert Dock

36. Passenger Terminal Opening Times

No Passenger Terminal Buildings within the Airport shall be open for use operation or trading except between the hours of:

- 0430 and 2230 Monday to Friday;
- 0430 and 1300 on Saturdays;
- 1030 and 2230 on Sundays;
- 0700 and 2230 hours on Public and Bank Holidays; and
- not at all on Christmas Day

In the event that an unavoidable operational delay occurs to an inbound or an outbound aircraft, no Passenger Terminal Building shall be open for use, operation or trading more than 30 minutes after such aircraft has landed or departed from the Airport.

Reason: To safeguard local residential amenity.

37. Passenger Numbers

At no time shall the passenger throughput of the Airport exceed 9 million passengers in any twelve month period.

A Quarterly Report of the moving annual total number of passengers through the Airport (arrivals plus departures) shall be submitted to the local planning authority no later than 28 days after the end of each Quarter to which the data relates.

Reason: To enable the local planning authority to exercise proper control over the development, in the interests of securing a satisfactory operation of the development and to safeguard the amenities of the surrounding area.

38. Ground Power Strategy

The aircraft stands hereby approved shall only be served by Fixed Electrical Ground Power, battery-powered Mobile Ground Power Units or equivalent equipment installed and operated in accordance with the 'Condition 44: Ground Power Strategy Version 1' document dated June 2020 approved under reference 20/01200/NONMAT (dated 10 September 2020) unless an alternative or amended Ground Power Strategy is agreed in writing with the local planning authority.

Reason: In order to minimise noise and disturbance, in the interest of residential amenity and in the interest of protecting environmental amenity.

39. Use of Ground Power

Except in a case of emergency or if faults occur, no aircraft on an operational aircraft stand shall use a diesel Mobile Ground Power Unit for conditioning an aircraft prior to engine start-up or for the starting of an aircraft engine.

Reason: In order to minimise noise and disturbance, in the interest of residential amenity and in the interest of protecting environmental amenity.

40. Auxiliary Power Units (APU)

The approved development shall be carried out in accordance with the 'Condition 47: Auxiliary Power Unit Strategy' document dated February 2020 approved under reference 20/00373/AOD (dated 2 March 2020) unless an alternative or amended Auxiliary Power Unit Strategy is agreed in writing with the local planning authority.

Except in cases of immediate emergency to persons on board an aircraft, or where fault occurs, no APU shall be used other than for essential conditioning of aircraft cabins and equipment prior to departure limited to a maximum of 10 minutes before an aircraft's departure from the stand or 10 minutes after an aircraft's arrival on the stand.

Annually on 1 June (or the first working day thereafter) in each year after the Commencement of Development and as a part of the Annual Performance Report, LCY shall provide a report containing details of the use of APUs at the Airport in the previous calendar year.

Reason: In the interest of protecting environmental amenity from noise and pollution impacts.

41. Ground Engine Running Strategy

The approved development shall be carried out in accordance with the 'Ground Engine Running Strategy 2023 Review' document dated 23 May 2023 approved under reference 23/01194/AOD (dated 25 July 2023) unless an alternative or amended Ground Engine Running Strategy is agreed in writing with the local planning authority.

A report shall be submitted to the local planning authority annually on 1 June (or the first working day thereafter) as part of the Annual Performance Report on the performance and or compliance during the previous calendar year with the approved targets in the Ground Engine Running Strategy.

The Ground Engine Running Strategy shall be reviewed every 3 years from approval and the review shall be submitted to the local planning authority for approval in writing by the following 1 June (or the first working day thereafter) and implemented as approved.

The strategy shall identify measures to:

- minimise engine usage while aircraft occupy stands;
- minimise the duration of engine usage while taxiing; and
- ensure the operators of aircraft at the Airport comply with the approved strategy in order to mitigate as far as practicable the emissions from aircraft engines.

Reason: In the interests of protecting environmental amenity from noise impacts.

42. Ground Running, Testing and Maintenance Strategy

The approved development shall be carried out in accordance with the 'Ground Running, Testing and Maintenance Strategy 2023 Review' dated 26 May 2023 (GRTMS) approved under reference 23/01194/AOD (dated 25 July 2023) unless an alternative or amended GRTMS is agreed in writing by the local planning authority.

A report to the local planning authority shall be submitted annually on 1 June (or the first working day thereafter) as part of the Annual Performance Report on the performance and compliance during the previous calendar year with the targets in the GRTMS. Every 3 years from approval the GRTMS shall be reviewed and the review shall be submitted to the local planning authority for approval in writing by the following 1 June (or the first working day thereafter) and implemented as approved.

Every GRTMS review shall identify:

- the long-term area for testing; and
- areas for testing during periods of construction affecting the long term agreed location.

Reason: In the interests of protecting environmental amenity from noise impacts.

43. Ground Running, Testing and Maintenance

Unless in exceptional circumstances, the Ground Running of aeroplane engines for testing or maintenance purposes shall only take place between the following hours:

- 0630 and 2200 Monday to Friday;
- 0630 and 1230 on Saturdays;
- 1230 and 2200 on Sundays;
- 0900 and 2200 on Bank Holidays and Public Holidays (but not at all on Christmas Day); and
- in such locations and with such orientation of the aircraft as set out in the approved GRTMS and employing such noise protection measures as set out in the approved GRTMS;

provided that the restrictions above shall not prevent aircraft maintenance work taking place outside of these hours where that work will not be audible at the Airport Boundary or at any Sensitive Receptor and provided this restriction shall not prevent Auxiliary Power Unit usage for essential conditioning of aircraft cabins and equipment prior to departure limited to a maximum of 10 minutes before an aircraft's departure from the stand or 10 minutes after arrival on the stand.

Reason: In the interests of protecting environmental amenity from noise impacts at sensitive parts of the day.

44. Ground Run Noise Limit

The noise level arising from Ground Running shall not exceed the Ground Running Noise Limit.

The approved development shall be carried out in accordance with the 'Condition 51: Ground Running Noise Limit Strategy' document dated January 2017 approved under reference 17/00226/AOD (dated 23 March 2017) unless an alternative or amended Ground Running Noise Strategy is agreed in writing by the local planning authority.

Reason: In the interests of protecting environmental amenity from noise impacts.

45. Ground Running Annual Performance Report

The local planning authority shall be provided with the following annually on 1 June (or the first working day thereafter) as part of the Annual Performance Report:

- a) written details of Ground Running that has taken place during the preceding calendar year including details of the number, duration and power setting of ground runs and the types of aircraft involved; and
- b) written measurements and calculations to show whether the Ground Running Noise Limit has been exceeded as a result of Ground Running during the preceding calendar year.

Reason: In the interests of protecting environmental amenity from noise impacts.

46. Permanent Eastern Apron Extension Noise Barrier

The approved development shall be carried out in accordance with the 'Condition 53: Permanent Eastern Apron Extension Noise Barrier' document dated February 2018 approved under reference 18/00552/AOD (dated 12 April 2018) unless alternative or amended noise barrier details are agreed in writing by the local planning authority.

Reason: In the interests of protecting environmental amenity from noise impacts.

47. Retention of all existing Noise Barriers

No part of the Airport shall be used unless all existing noise barriers shown on Plan P7 are in place or alternatives that have been approved pursuant to Condition 5 or Condition 45 are in place. Such noise barriers shall be retained thereafter (provided always that any temporary noise barrier approved pursuant to Condition 6 and/or Condition 83 can be removed subject to the prior approval in writing of the local planning authority).

Reason: In the interests of protecting environmental amenity from noise impacts.

48. Ground Noise Study

The approved development shall be carried out in accordance with the 'Ground Noise Study 2021' document dated 30 July 2021 approved under reference 21/02179/AOD (dated 1 December 2021) unless an alternative or amended

Ground Noise Study is agreed in writing by the local planning authority. Ground noise studies shall be undertaken at intervals of not less than three years from the date of approval. Such additional ground noise studies shall be submitted to the local planning authority within 30 days of their completion. Any necessary mitigation measures identified within those studies shall be implemented as approved.

Reason: In the interests of protecting environmental amenity from noise impacts.

49. Sustainability and Biodiversity Strategy

The approved development shall be carried out in accordance with the 'Condition 56: Sustainability and Biodiversity Strategy Version 1' dated May 2023 approved under application 23/01195/AOD (dated 26 October 2023) unless an alternative or amended Sustainability and Biodiversity Strategy is agreed in writing by the local planning authority.

A report shall be submitted to the local planning authority annually on 1 June (or the first working day thereafter) as part of the Annual Performance Report on the performance and compliance during the previous calendar year with the targets in the approved Sustainability and Biodiversity Strategy/Strategies.

Every 3 years from its approval the Sustainability and Biodiversity Strategy shall be reviewed and the reviews shall be submitted to the local planning authority for approval in writing by the following 1 June (or the first working day thereafter) and implemented as approved.

Reason: In the interest of impacts on biodiversity and maximising the ecological potential of the site.

50. Air Quality Monitoring

The approved development shall be carried out in accordance with the 'Condition 57: Air Quality Monitoring Strategy' dated June 2023 approved under reference 23/01196/AOD (dated 31 July 2023) unless an alternative or amended Air Quality Monitoring Strategy is agreed in writing by the local planning authority and subject to the following provision for monitoring of Ultra-Fine Particles (UFPs) and periodic review of the Air Quality Monitoring Strategy.

Within 6 months of the Implementation of this Planning Permission a monitoring scheme of UFPs in the vicinity of the Airport (to include details of duration, method and reporting of results) shall be submitted to and agreed in writing by the local planning authority.

The approved scheme of monitoring shall be implemented as part of the Air Quality Monitoring Strategy and first reported to the local planning authority within 12 months of the date of approval of the scheme.

Every 3 years from approval of the first UFP monitoring scheme the Air Quality Monitoring Strategy shall be reviewed and the reviews shall be submitted to the local planning

authority 14 for approval in writing by the following 1 June (or the first working day thereafter) and implemented as approved.

Reason: To ensure that the development is constructed in accordance with the Updated Environmental Statement dated February 2016 and Environmental Statement dated December 2022.

51. Air Quality Management Strategy (AQMS)

The approved development shall be carried out in accordance with the 'Air Quality Management Strategy' dated June 2023 approved under reference 23/01196/AOD (dated 31 July 2023) unless an alternative or amended AQMS is approved in writing by the local planning authority.

The AQMS shall be reviewed every three years from the date of approval and the reviews shall be submitted to the local planning authority for approval in writing by the following 1 June (or the first working day thereafter) and implemented as approved.

Reason: To ensure that the development is constructed in accordance with the Updated Environmental Statement dated February 2016 and Environmental Statement dated December 2022.

52. Complaints about Environmental Impact

1) A summary record shall be maintained of all complaints about the environmental impact of the operation of the Airport and any action taken to deal with or remedy such complaints.

2) A detailed report shall be submitted of all complaints and any action taken:

- to the local planning authority within 15 days of that complaint being made or that action being undertaken;
- to the Airport Consultative Committee at the meeting of that committee next following that complaint or that action; and
- as part of the Annual Performance Report in relation to such complaints and actions in the preceding calendar year.

3) Complaint records shall be made available for inspection at all reasonable hours by the local planning authority pursuant to Part 1 of this condition.

Reason: In the interests of monitoring and minimising the environmental impacts of the Airport.

53. Use of the River Thames for Construction

4) The approved development shall be carried out in accordance with the 'Condition 60: Use of the River Thames for Construction Version 2' document dated May 2017 approved under reference: 17/00534/AOD (dated 12 May 2017) unless an alternative or amended Strategy is agreed in writing by the local planning authority.

5) Reason: To ensure that the development accords with the aims and objectives of promoting the use of sustainable use of transport.

54. Energy Assessment and Reduction in Carbon Dioxide Emissions

The development shall be built out in accordance with the Revised Energy and Low Carbon Strategy approved under Condition 2 unless an alternative or amended Strategy is agreed in writing by the local planning authority in consultation with the Greater London Authority.

Reason: To ensure the development makes the fullest contribution to minimising carbon dioxide emissions in accordance with the Mayor of London's energy hierarchy.

55. Archaeology Scheme of Investigation and List of Historic Buildings

The approved development shall be carried out in accordance with the 'Condition 62 – Archaeology Scheme of Investigation and List of Historic Sites' document dated March 2018 approved under reference 18/00671/AOD (dated 13 July 2018) and the updates within Appendix 2 of the covering letter dated 17 September 2019 approved under reference 19/02559/AOD (dated 20 December 2019) unless an alternative or amended Scheme of Archaeological Investigation is agreed in writing with the local planning authority.

Reason: To secure the provision of archaeological investigation and the subsequent recording of the remains prior to development, as the site has archaeological potential in terms of heritage assets of archaeological interest.

56. BREEAM

The approved development shall be carried out in accordance with the 'Condition 63: BREEAM' document dated March 2018 approved under reference 18/00802/AOD (dated 20 April 2018) unless alternative or amended details are agreed in writing with the local planning authority.

Within 6 months of the full occupation of all of the terminal buildings (Eastern Terminal Extension, Western Terminal Extension and New East Pier) a Building Research Establishment certificate confirming that the terminal buildings cumulatively achieve a minimum BREEAM rating of Very Good shall be submitted to the local planning authority for approval in writing. Within 1 month of occupation of any new CADP1 terminal building, a report shall be submitted to the local planning authority to confirm that cumulatively the new terminal buildings will still achieve a minimum BREEAM rating of Very Good.

Reason: In the interests of energy efficiency and sustainability

57. Photovoltaic Panels

The approved development shall be carried out in accordance with the 'Condition 64: Photovoltaic Panels' document dated September 2019 approved under 19/02559/AOD (dated 20 December 2019) unless alternative or amended details are agreed in writing with the local planning authority. The photovoltaic panels shall be installed and retained in accordance with the approved details.

Reason: To encourage and establish sustainable energy use.

58. Crossrail Method Statement

The approved development shall be carried out in accordance with the 'Condition 65: Crossrail Method Statement' document dated February 2018 approved under reference 18/00577/AOD (dated 13 July 2018) and the updates within Appendix 2 of the covering letter dated 17 September 2019 approved under reference 19/02559/AOD (dated 20 December 2019) unless an alternative or amended Crossrail Method Statement is agreed in writing with the local planning authority.

Reason: To ensure there is no conflict in terms of safeguarding or safety with Crossrail.

59. Non-Return Water Valve and Sustainable Urban Drainage

The approved development shall be carried out in accordance with the 'Condition 66: Non Return Water Valve and Sustainable Urban Drainage' document dated May 2018 approved under reference 18/01391/AOD (dated 13 July 2018).

Each Phase of the development shall be implemented in accordance with the approved details unless an alternative or amended Non Return Water Valve and Sustainable Urban Drainage Scheme is agreed in writing with the local planning authority and the above waste and storm water measures shall be retained thereafter.

Reason: To sustainably safeguard the waste and storm water system.

60. Petrol/Oil Interceptors

Prior to operation of the relevant Phase of the development, all new parking areas provided as part of that Phase shall be drained through a petrol/oil interceptor system. This system shall comply with the requirements of Thames Water Utilities and the Environment Agency (Water Acts). Thereafter, the system shall be cleansed and retained in accordance with manufacturer's instructions.

Reasons: To prevent large quantities of oil, petrol and road dirt entering the existing sewerage system.

61. Artificial Fish Refugia (Habitat)

The Artificial Fish Refugia installed on 30 November 2017 as confirmed by reference 18/00671/AOD (dated 13 July 2018) shall be retained in situ unless alternative or amended details are agreed in writing by the local planning authority.

Reason: To improve aquatic ecology in King George V Dock and compensate for the loss of dock wall habitat arising from the development.

62. Sustainable Drainage Systems

The development shall be carried out in accordance with the 'Condition 69: Sustainable Urban Drainage Systems Version 2' document dated May 2018 approved under reference 18/01391/AOD (dated 13 July 2018) unless an alternative or amended scheme is agreed in writing with the local planning authority.

Reason: To prevent the increased risk of flooding to interested parties and to the site itself; to improve water quality; to enhance biodiversity; and to ensure future maintenance of the surface water drainage system.

63. Waste Management Strategy

The approved development shall be operated in accordance with the 'Condition 70 - Waste Management Strategy' dated March 2018 approved under reference 18/00671/AOD (dated 13 July 2019) and the updates within Appendix 2 of the covering letter dated 17 September 2019 approved under reference 19/02559/AOD (dated 20 December 2019) unless an alternative or amended Waste Management Strategy is agreed in writing with the local planning authority. The Waste Management Strategy shall seek to maximise the use of the River Thames and other waterways for the transport of waste materials from the Airport for each Phase of the development and shall be implemented on commencement of development of the relevant Phase.

Reason: To ensure that the development accords with the aims and objectives of promoting the use of sustainable transport.

64. Travel Plan

The Airport shall be operated in accordance with the 'Condition 71: Travel Plan 2023-2025 Version 5' document dated November 2022 approved under application 22/02830/AOD (dated 31 March 2023) or any review of the Travel Plan under this condition.

The approved Travel Plan shall be reviewed in 2025 and every 5th year thereafter. The reviews shall be submitted to the local planning authority within 3 months of such review

dates for written approval and implemented in accordance with an approved timeframe and maintained thereafter. The Staff and Passenger Travel Plan review shall include targets for managing any impacts of the Airport's staff and passengers on the local road network; and monitoring procedures for sustainable travel initiatives.

Reason: To ensure that the development accords with the aims and objectives of policy 6.3 of The London Plan (consolidated with alterations Since 2011 and published March 2015), and policy INF2 of the Newham Core Strategy (adopted 26 January 2012).

65. Parking for Disabled People

The car parking accommodation of the approved development shall include at least 3% of passenger and 5% of staff spaces suitable for use by a disabled person (in accordance with the specifications within BS8300: Design of buildings and their approaches to meet the needs of disabled people: Code of Practice).

Reason: To ensure access for people with disabilities.

66. Access Roads and Parking Areas

The access roads and parking areas shall be constructed in accordance with the 'Condition 73: Access Roads and Parking Facilities' document dated August 2017 as approved under reference 17/02871/AOD (dated 27 September 2017) as updated by application reference 18/02102/AOD (dated 29 August 2018) and the updates within Appendix 2 of the covering letter dated 17 September 2019 approved under reference 19/02559/AOD dated (20 December 2019) unless alternative or amended details are agreed in writing with the local planning authority and the access roads and parking areas shall be retained thereafter.

No part of the Eastern Terminal Extension hereby approved shall be occupied until the temporary access roads giving access to the A1117 and a temporary taxi feeder park are provided and which shall remain in place until the permanent access roads and parking areas approved under this condition are completed

Reason: To ensure the development makes adequate provision for the off-street parking and manoeuvring of vehicles likely to be associated with the approved use.

67. Use of Parking Spaces

The car parking hereby approved shall be used by the staff and visitors associated with the Airport and for no other users.

Reason: In order to provide a satisfactory level of on-site parking.

68. Cycle Parking

The secure and covered cycle parking facilities shall be provided in accordance with the 'Condition 75: Cycle Parking Version 2' document dated November 2019 approved under reference 19/02620/AOD (dated 4 December 2019) unless alternative or amended facilities are agreed in writing with the local planning authority. Such cycle parking facilities shall be retained thereafter.

Reason: To ensure the provision of adequate cycle facilities.

69. Delivery and Service Plan

The approved development shall be carried out in accordance with the 'Condition 76: Delivery and Servicing Plan' dated September 2019 approved under reference 19/02620/AOD (dated 18 4 December 2019) unless an alternative or amended Delivery and Servicing Plan is agreed in writing with the local planning authority.

The development shall only be operated in accordance with the approved Delivery and Servicing Plan, which shall be retained thereafter.

Reason: To ensure that vehicle movements associated with the use hereby permitted remain consistent and that the use does not represent any unacceptable level of vehicle movements such that the safety of pedestrians and cyclists shall be unduly prejudiced.

70. Traffic Management Plan

The approved development shall be carried out and operated in accordance with the 'Condition 77 - Traffic Management Plan, Version 3' document dated March 2018 approved under reference 18/00741/AOD (dated 13 July 2018) and the updates within Appendix 2 of the covering letter dated 17 September 2019 approved under reference 19/02559/AOD (dated 20 December 2019) unless an alternative or amended Traffic Management Plan is agreed in writing with the local planning authority.

Reason: To prevent obstruction of the public highway surrounding the site and internal roads used by buses, taxis, delivery vehicles, cyclists and pedestrians and avoid accidents.

71. Taxi Management Plan

The approved development shall be carried out and operated in accordance with the 'Condition 78 - Taxi Management Plan, Version 3' dated March 2018 approved under reference 18/00741/AOD (dated 13 July 2018) and the updates within Appendix 2 of the covering letter dated 17 September 2019 approved under reference 19/02559/AOD (dated 20 December 2019) unless an alternative or amended Taxi Management Plan is agreed in writing by the local planning authority.

Reason: To ensure that taxi facilities are operated safely and efficiently.

72. Transport Management Strategy

The Airport shall only be operated in accordance with the 'Condition 79 Transport Management Strategy' document dated September 2019 approved under reference 19/02620/AOD (dated 04 December 2019) or any replacement strategy approved thereafter.

Reason: In the interest of residential amenity, parking congestion and highway, pedestrian and visitor safety.

73. Bus Facilities

The approved Bus Facilities Plan shall be implemented in accordance with the 'Condition 80: Bus Facilities Plan Version 4' dated June 2018 approved under 18/00741/AOD (dated 13 July 2018) or any subsequent arrangements approved by the local planning authority.

Reason: To ensure that bus services can safely serve the site as if they were on the public highway including regular maintenance and appropriate management, as the forecourt design includes changes to bus facilities that are not part of the public highway and need to be accessed via private land.

74. Unexploded Ordnance

The development shall only be carried out in accordance with the site safety and emergency procedures in the 'Condition 81: Unexploded Ordnance' document dated January 2017 approved under reference 17/00245/AOD (dated 24 March 2017) unless an alternative or amended plan is agreed in writing with the local planning authority.

Reason: To reduce risk from Unexploded Ordnance to an acceptable level, as the site lies within an area of the London Borough of Newham that has been identified as being at potential risk from buried explosive ordnance due to wartime bombing.

75. Piling

No impact piling shall take place until there has been submitted to and approved in writing by the local planning authority a piling method statement, detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and/or minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works. Any piling shall be undertaken in accordance with the terms of the approved piling method statement.

Reason: To ensure that the piling will not impact on local underground sewerage utility infrastructure, as it will be close to underground sewerage utility infrastructure.

76. Construction Working Hours

No construction works shall take place between 2000 hours on Sundays to 0700 hours on Mondays; and no construction works shall be carried out on Bank and Public Holidays.

Reason: To ensure respite for nearby Sensitive Receptors and ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area.

77. Construction Design and Method Strategy

The approved development shall be carried out in accordance with the 'Condition 87: Construction Design and Method Strategy' document dated February 2018 approved under reference 18/00578/AOD (dated 13 July 2018) and the updates within Appendix 2 of the covering letter dated 17 September 2019 approved under reference 19/02559/AOD (dated 20 December 2019) unless an alternative or amended Strategy is agreed in writing with the local planning authority.

Reason: To ensure a satisfactory standard of development and to safeguard amenities of the surrounding area.

78. Construction Environmental Management Plan (CEMP)

The approved development shall be carried out in accordance with the 'Condition 88: Construction Environment Management Plan Version 2' dated December 2019 approved under reference 19/02619/AOD (dated 20 December 2019) unless an alternative or amended CEMP is agreed in writing by the local planning authority.

Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area.

79. Construction Sound Insulation for Sensitive Receptors

The approved development shall be carried out in accordance with the 'Condition 89: Construction Sound Insulation Scheme' document dated January 2017 approved under reference 17/00228/AOD (dated 24 March 2017) unless an alternative or amended Construction Sound Insulation Scheme is agreed in writing by the local planning authority.

Reason: To ensure that affected Sensitive Receptors are suitably mitigated against intrusive construction noise impacts.

80. Night-time Construction Sound Insulation

Prior to the Commencement of Development of the relevant Phase approved under Condition 3, any works required in accordance with the Construction Sound Insulation

Scheme approved under Condition 79 shall be offered to Sensitive Receptors in accordance with that Scheme unless alternative or amended provisions are agreed in writing by the local planning authority.

Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area.

81. Day time Construction Noise Mitigation

Prior to the Commencement of Development of the relevant Phase approved under Condition 3, any works required in accordance with the Construction Sound Insulation Scheme approved under Condition 79 shall be offered to Sensitive Receptors in accordance with that Scheme unless alternative or amended provisions are agreed in writing by the local planning authority.

Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area.

82. Construction Lighting

The approved development shall be carried out in accordance with the 'Construction Lighting, Version 2' document dated March 2018 as approved under reference 18/00761/AOD (dated 13 July 2018) and the updates within Appendix 2 of the covering letter dated 17 September 2019 approved under reference 19/02559/AOD dated 20 December 2019 unless alternative or amended details are agreed in writing by the local planning authority.

Reason: To ensure that construction and community safety is not compromised.

83. Monitoring and Reporting (Construction)

1) Noise and vibration monitoring shall be undertaken by LCY continuously throughout the construction of the development at no fewer than 2 locations to ensure that demolition and construction works and associated activities are being undertaken in a manner that ensures compliance with the specified noise level limits and triggers.

2) Manual short-term noise measurements shall be undertaken as regularly as necessary to verify that the continuous noise monitoring is adequately reflecting the impact of noise on the surrounding buildings.

3) Noise monitoring shall be undertaken at one or more locations continuously around the site throughout the duration of the works by LCY to verify that the continuous noise monitoring is adequately reflecting the impact of noise on the surrounding buildings and that the construction noise levels are in compliance with planning or other legal requirements.

4) Suitable vibration monitoring equipment shall be made available on site to demonstrate compliance with the specified vibration level limits. The equipment shall be capable of monitoring peak particle velocity in three mutually perpendicular axes and shall be capable of measuring down to 0.1 mm/s.

5) An alert or traffic light type system shall be operated to warn operatives and the construction manager when the site boundary noise limit is being approached and when it is being exceeded. This will provide the facility to monitor whether limits are being approached.

6) The noise data from the continuous noise monitoring system shall be made accessible in real time (as far as practically possible) via a web-based system that is available to all relevant parties for viewing.

Reason: To ensure a satisfactory standard of development and to safeguard amenities of the surrounding area.

84. Temporary Construction Noise Barrier

The temporary construction noise barrier shall be erected and retained in accordance the 'Condition 94: Temporary Construction Noise Barrier' document dated October 2017 approved under reference 17/03556/AOD (dated 22 November 2017) unless alternative or amended details are approved in writing with the local planning authority.

The temporary construction noise barrier shall be retained for the duration of the construction works.

Upon completion of the development the temporary noise barrier shall be dismantled and removed from the Airport in its entirety.

Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area.

85. Construction Complaints Handling

A person shall be made responsible for liaison with the local community in order to keep them informed of progress and for providing a means of treating complaints fairly and expeditiously. The details of their role and responsibilities are specified in the Construction Design and Method Strategy approved under Condition 77. A comprehensive complaints management scheme, by which complaints are received, recorded, monitored, actioned and reported, shall be put in place and implemented in accordance with the approved specification in the Construction Design and Method Strategy. During construction works, a dedicated channel (telephone line) shall be provided to facilitate and receive complaints, staffed for 24 hours a day.

Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area.

86. Construction Compound Operations and Hoarding

Development shall be carried out in accordance with the 'Condition 96: Construction Compound' document dated March 2018 approved under reference 18/00761/AOD (dated 13 July 2018).

Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area.

87. Vibration Limits

Vibration from construction shall not exceed a Peak Particle Velocity of 1mm/s in any axis, measured adjacent to the foundations of any Sensitive Receptor and 3mm/s at commercial receptors. Where vibration levels exceed the above limits, steps shall be taken to reduce levels to within the above limits in accordance with details to be submitted to and approved in writing by the local planning authority. Where vibration levels exceed 3mm/s works shall cease and measures shall be taken to reduce vibration levels to below 1mm/s.

Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area.

88. Additional flight slots limited to newer generation aircraft

Any Aircraft Movements in excess of 6 and up to 9 movements between 0630 hours and 0659 hours on Mondays to Saturdays shall be restricted to the new generation aircraft identified in Table 8-7 of the December 2022 Environment Statement (namely the Airbus A220-100; Airbus A220-300; Embraer E190-E2; Embraer E195-E2) and any other aircraft

that meets each of the new generation aircraft noise standards set out in paragraph 8.5.36 of the December 2022 ES.

For the avoidance of doubt these limits are:

- Have a flyover level not exceeding 85.0 EPNdB,
- Have a sideline level not exceeding 89.0 EPNdB, • Have an approach level not exceeding 93.0 EPNdB, and
- Have a sum of its three certificated noise levels not exceeding 263.0 EPNdB.

Reason: To ensure that the scheduled aircraft movements in the extended operating periods are on new generation aircraft only.



The Planning Inspectorate

Report to the Secretaries of State for Levelling Up, Housing & Communities and for Transport

**by Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC and Johanna Ayres
BA (Hons) Solicitor**

Inspectors appointed by the Secretary of State for Levelling Up, Housing & Communities

Date 20 May 2024



TOWN AND COUNTRY PLANNING ACT 1990

APPEAL BY

LONDON CITY AIRPORT LIMITED

TABLE OF CONTENTS

	Cover	
	List of abbreviations	3
1	Procedural Matters	7
2	Site and Surrounding Area	8
3	Relevant Background and Planning History	9
4	The Proposal	11
5	The Environmental Statement	12
6	Planning Law, Policy and Guidance	13
7	Agreed Matters	21
8	The Case for London City Airport	28
9	The Case for London Borough of Newham	81
10	The Case for HACAN EAST	94
11	The Cases for Interested Parties Appearing at the Inquiry	110
12	Written Representations	114
13	Conditions and Planning Obligation	123
14	Inspector Considerations	124
	Noise	124
	Need and Forecasting	143
	Other Considerations	149
	<i>Air Quality</i>	149
	<i>Climate Change</i>	150
	<i>Transport</i>	152
	<i>Public Sector Equality Duty</i>	153
	<i>Socio-Economic Benefits</i>	153
	Planning Balance	157
	Conditions and Planning Obligation	160
15	Recommendation	166
	Annexes	
A	Appearances	168
B	Core Documents	169
C	Inquiry Documents	170
D	List of disputed conditions and reasons subject of the appeal	171
E	Schedule of recommended conditions	175
F	Recommended conditions should the SOS wish to allow the appeal including the revised operating hours	198

LIST OF ABBREVIATIONS

TERM	DEFINITION/DESCRIPTION
ACA	Airport Carbon Accreditation
ANCS	Aircraft Noise Categorisation Scheme
AIP	Aeronautical Information Publication
Airport	London City Airport
ANCON2	Airport Noise Contour model
ANG	Air Navigation Guidance
ANPS	Airports National Policy Statement (June 2018)
APD	Air Passenger Duty
APF	Aviation Policy Framework (March 2013)
APR	Annual Performance Report
APU	Auxiliary Power Units
AQMS	Air Quality Management Strategy
ATM	Air Transport Movement
Aviation 2050	Aviation 2050: The Future of UK Aviation (December 2018)
BACF	British Airways Cityflyer
BEIS	Department for Business, Energy & Industrial Strategy (now DESNZ)
BREEAM	Building Research Establishment Environmental Assessment Method
BST	British Standard Time
CAA	Civil Aviation Authority
CADP1	City Airport Development Programme, approved by the Secretary of State in 2016
CAGR	Compound Annual Growth Rate
CCA	Climate Change Act 2008
CCCAP	Carbon and Climate Change Action Plan
CCC	Climate Change Committee
CDA / CDO	Continuous Decent Approach / Continuous Decent Operations
CEMP	Construction Environment Management Plan
CMC	Case Management Conference
CORSIA	Carbon Offset and Reduction Scheme for International Aviation
CSIS	Construction Sound Insulation Scheme
CSS	Citizen Science Study
dB	Decibel
DC	Development Case i.e the proposed development
Defra	Department for Environmental, Food and Rural Affairs
DESNZ	Department for Energy Security and Net Zero
DfES	Department for Education and Skills
DfT	Department for Transport
DLR	Docklands Light Railway
DLUHC	Department for Levelling Up, Housing and Communities

DoV	Deed of Variation
DM	Do Minimum case/scenario i.e the existing development/operational hours under CADP1.
EEA	European Economic Area
EEA EMEP	European Environment Agency / European Monitoring and Evaluation Programme
EIA	Environmental Impact Assessment
ENR	Environmental Noise Regulations 2006
ES	Environmental Statement
EU ETS	European Union Emissions Trading Scheme
FAA	The Federal Aviation Administration
FEGP	Fixed Electrical Ground Power
FTTF	Flightpath to the Future (May 2022)
FTE	Full-time Equivalent
GDP	Gross Domestic Product
GHG	Greenhouse Gas
GLA	Greater London Authority
GRTMS	Ground Running, Testing and Maintenance Strategy
GVA	Gross Value Added
ICAO	International Civil Aviation Organisation
ICCAN	Independent Commission on Civil Aviation Noise
IEMA	Institute of Environmental Management and Assessment
INQ	Inquiry Document
JZS	Jet Zero: Strategy for Net Zero Aviation by 2050 (July 2022)
JZSOYO	Department for Transport, Jet Zero – One Year On (July 2023)
LBN	London Borough of Newham
LCACF	London City Airport Community Fund
LCY	London City Airport (the Appellant)
LOAEL	Lowest Observed Adverse Effect Level
Local Study Area	The area defined in the S106 Agreement for monitoring local employment
LPA	Local Planning Authority
MAT	Moving Annual Total, the sum of activity in a consecutive 12 month period
MBU	Beyond the Horizon The future of aviation Making best use of existing runways (June 2018)
mppa	Million passengers per annum
NATS	National Air Traffic Service
NASSA	Newham All Star Sport Academy
NEF	New Economics Foundation
NPWLRA	New Providence Wharf Leaseholders & Residents Association
NMT	Noise Monitoring Terminals
NOEL	No Observed Effect Level
NOMMS	Noise Management and Mitigation Scheme

NPPF	National Planning Policy Framework (December 2023)
NPPG	National Planning Policy Guidance
NPS	National Policy Statement
NPSE	Noise Policy Statement for England (March 2010)
NPWLRA	New Providence Wharf Leaseholders & Residents Association
NTS	Non-Technical Summary
OA	Opportunity Area
OANPS	Overarching Aviation Noise Policy Statement (March 2023)
OAPF	The Royal Docks and Beckton Riverside Opportunity Area Planning Framework (2023)
OR	Officer Report
Pax	Passengers
PINS	Planning Inspectorate
PoE	Proof of Evidence
QC	Quota Count
RDMA	Royal Docks Management Authority
RfR	Reason for Refusal
RPK	Revenue passenger kilometre: an airline measure of demand with 1 RPK being generated by one revenue-generating passenger being flown one kilometre
SAC	Special Area of Conservation
SAF	Sustainable Aviation Fuel
SCI	Statement of Community Involvement
SEL	Sound Exposure Level
SID	Standard Instrument Departure
SIS	Sound Insulation Scheme
SOAEL	Significant Observed Adverse Effect Level
SoCG	Statement of Common Ground
SoNA	Survey of Noise Attitudes (2014)
SoS	Secretaries of State
STF	Sustainable Transport Fund
SSSI	Site of Special Scientific Interest
TCPA	Town and Country Planning Act 1990
TfL	Transport for London
UAEL	Unacceptable Adverse Effect Level
UEL	University of East London
UK ETS	United Kingdom Emissions Trading Scheme
WebTAG	DfT Transport Analysis Guidance
WFH	Working From Home
WHO	World Health Organization

File Ref: APP/G5750/W/23/3326646

London City Airport, Hartmann Road, Silvertown, London E16 2PX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by London City Airport Limited against London Borough of Newham.
- The application Ref 22/03045/VAR, dated 19 December 2022, was refused by notice dated 24 July 2023.
- The application sought the variation of conditions attached to a planning permission Ref 13/01228/FUL, which was allowed on appeal Ref APP/G5750/W/15/3035673 dated 26 July 2016 for:

“Works to demolish existing buildings and structures and provide additional infrastructure and passenger facilities at London City Airport. Detailed planning permission is being sought for:

 - a. Demolition of existing buildings and structures;
 - b. Works to provide 4 no. upgraded aircraft stands and 7 new aircraft parking stands;
 - c. The extension and modification of the existing airfield to include the creation of a taxi lane running parallel to the eastern part of the runway and connecting with the existing holding point;
 - d. The creation of a vehicle access point over King George V dock for emergency vehicle access;
 - e. Laying out of replacement landside Forecourt area to include vehicle circulation, pick up and drop off areas and hard and soft landscaping;
 - f. The Eastern Extension to the existing Terminal building (including alteration works to the existing Terminal Building) to provide reconfigured and additional passenger facilities and circulation areas, landside and airside offices, immigration areas, security areas, landside and airside retail and catering areas, baggage handling facilities, storage and ancillary accommodation;
 - g. The construction of a 3 storey Passenger Pier to the east of the existing Terminal building to serve the proposed passenger parking stands;
 - h. Erection of a noise barrier at the eastern end of the proposed Pier;
 - i. Erection of a temporary noise barrier along part the southern boundary of the Application Site to the north of Woodman Street;
 - j. Western Extension and alterations to the existing Terminal to provide reconfigured additional passenger facilities and circulation areas, security areas, landside and airside offices, landside retail and catering areas and ancillary storage and accommodation;
 - k. Western Energy Centre, storage, ancillary accommodation and landscaping to the west of the existing Terminal;
 - l. Temporary Facilitation works including erection of a noise reduction wall to the south of 3 aircraft stand, a Coaching Facility and the extension to the outbound baggage area;
 - m. Works to upgrade Hartmann Road;
 - n. Landside passenger and staff parking, car hire parking and associated facilities, taxi feeder park and ancillary and related work;
 - o. Eastern Energy Centre;
 - p. Dock Source Heat Exchange System and Fish Refugia within King George V Dock; and q. Ancillary and related works.”
- The conditions in dispute are Nos 2, 8, 12, 17, 23, 25, 26, 35, 42, 43 and 50.
- A full list of the disputed conditions and reasons for imposing them as per the 2016 permission are set out in Annex D.
- The Secretaries of State for Levelling Up, Housing and Communities and Transport made a direction dated 22 November 2023 made under section 266(1A) of the Town and Country Planning Act 1990, for joint determination of the planning appeal.

Summary of Recommendation: That the appeal be allowed and planning permission granted, subject to conditions.

1. PROCEDURAL MATTERS

- 1.1 The Inquiry relates to an appeal against 11 conditions¹ which formed part of a previous planning permission (referenced as CADP1) at London City Airport. In light of the scale of the Inquiry, it was decided that the appeal would be considered by an Inspector with an assistant Inspector.
- 1.2 A Core Documents library was established in advance of the Inquiry. Documents were also submitted during the course of the Inquiry. Details of these and how to access them are annexed to this report. The Inspectors are grateful to Joanna Vincent, the Programme Officer, for her assistance with the running of the Inquiry and the documents website.
- 1.3 A Case Management Conference (CMC) was held on 9 October 2023. An agenda and notes of the CMC are on the Inquiry website. HACAN East appeared at the CMC and at the Inquiry as a Rule 6 party. Together with the appellant (LCY) and the Council (LBN), they are the main parties in the consideration of this appeal.
- 1.4 The Inquiry opened on 5 December 2023. Due to the illness of LBN's advocate, the Inquiry was adjourned after hearing the openings by the main parties and oral evidence from a number of interested parties. To make best use of the allocated time, site visits took place on 6, 8 & 9 December 2023, and the conditions and planning obligation session on 7 December 2023. Formal evidence continued 15-26 January, with LBN being represented by a new advocate. The Inquiry was closed on 2 February 2024, after virtual closings were given by the parties.
- 1.5 A further unaccompanied site visit took place on 26 February to the surrounding area when the flights were arriving and departing in an easterly direction. All site visits were undertaken following agreed itineraries.² Due to the nature of the conditions in dispute, one site visit took place on a Saturday afternoon, to aid understanding of the noise conditions in the surrounding area when London City Airport (the Airport) operations are currently restricted.
- 1.6 The Inquiry was held at two separate venues. Virtual participation via Zoom and livestreaming was also in place for interested parties. Unfortunately, both venues suffered from technical issues affecting the livestreaming, including the acoustics. The Inquiry was paused to deal with these instances and all of the three main parties worked together to resolve matters proactively. Accordingly, there was no prejudice in this regard.
- 1.7 A comprehensive Statement of Common Ground (SoCG)³ between LBN and LCY accompanied the appeal. A Planning Obligation in the form of a Deed of

¹ Annex D

² INQ15.1 & INQ15.2

³ CD11.2

Variation was also submitted in draft form, discussed at the Inquiry and subsequently finalised.⁴ We deal with these below.

- 1.8 A new version of the NPPF was published on 19 December 2023. The revisions had no significant bearing on the appeal proposals. Witnesses for all the parties have provided a list of updated references to those made within their Proofs of Evidence (PoE), for clarity.⁵
- 1.9 This report contains a description of the site and its surroundings, an explanation of the planning history and proposals, agreed matters, the Environmental Statement, identification of relevant planning policies, and the gist of the submissions made at the Inquiry and in writing. This is then followed by our conclusions and recommendation. Lists of appearances are annexed.⁶

2. THE SITE AND SURROUNDINGS

- 2.1 The Airport is a city centre airport located in the Royal Docks between the Royal Albert Dock and King George V Dock, adjacent to the Woolwich Reach and Gallions Reach of the River Thames. It is six miles east of the City of London, two miles east of Canary Wharf, and half a mile from ExCel London.
- 2.2 The existing infrastructure includes a runway, parallel taxiway, aprons, a main passenger terminal, a corporate aviation centre on the western side, as well as other operational buildings and associated infrastructure to the east. The runway is surrounded by water in the Royal Albert Dock and the King George V Dock.
- 2.3 The Airport is located approximately a mile from the A13, three miles from the North Circular (A406) and 15 miles from the M25. The highway network links the Airport to Canary Wharf, Tower Hill and the centre of London.
- 2.4 The Airport is connected to London's public transport rail system via its onsite DLR station, which links directly into the Airport terminal building with direct connections to/from the City, Stratford and Woolwich. This also provides connections to the Jubilee, Hammersmith and City, and District Line London Underground services and to the C2C, TfL Rail, London Overground and Greater Anglia national rail services.
- 2.5 Vehicle and bicycle access to the Airport is provided from Hartmann Road, which is a private road with an east-west orientation that connects with the A112 Connaught Road at a signalised junction at its western end. This currently functions as the single point of access to the Airport from the wider highway network.
- 2.6 The Airport is also served by bus routes 473 (Stratford – North Woolwich) and 474 (Canning Town – Manor Park), both of which stop on the Airport forecourt. Route 474 operates on a 24/7 basis and since May 2022 has been diverted to provide a direct link between the Airport and Custom House station to coincide with the opening of the Elizabeth Line.

⁴ INQ30, dated 26 January 2024

⁵ INQ20, INQ21, INQ22 & INQ23

⁶ Annex A

- 2.7 The surrounding urban area contains a mix of residential, industrial and commercial uses located on the northern and southern banks of the River Thames. Key residential locations include Silvertown and North Greenwich to the west of the Airport and Thamesmead to the east. To the north is the residential neighbourhood of Beckton, while to the south is North Woolwich on the north side of the Thames and Woolwich to the south.
- 2.8 Non-residential uses in the area include the large Tate and Lyle Factory to the south of the Airport; the Thames Barrier to the south-west; the University of East London (UEL) on the north-east side of the Royal Albert Dock; the Royals Business Park to the north; the London Regatta Centre on the north-west side of the Royal Albert Dock; the Excel Exhibition Centre and three adjacent high rise hotels to the west on the northern side of Royal Victoria Dock; and several areas of vacant land including land at Albert Basin to the east and a large expanse of land on the north side of Royal Albert Dock between UEL and Royals Business Park. A significant amount of development and regeneration is also planned in the vicinity of the Airport, including residential development.

3. RELEVANT PLANNING HISTORY

- 3.1 The Airport has grown incrementally over many years. Outline permission was first granted in 1985 which permitted 30,160 Air Traffic Movements (ATMs) as a short take-off and landing facility (STOLport) for small type aircraft. In 1991 permission was granted for the extension of the runway and variations to the original 1985 permission to allow up to 36,000 ATMs, and amendments to the Aircraft Noise Categorisation scheme to allow the operation of further types of aircraft.
- 3.2 In 1998, permission was granted to allow up to 73,000 ATMs and included a condition limiting opening times. Prior to 1998 operating hours on Saturday were 0630 to 2200 and on Sunday 0900 to 2200. Since then, operating hours on Saturday have been 0630 to 1230 and on Sunday 1230 to 2200. Subsequent permissions allowed the Airport to accommodate further growth and include permission granted in July 2009 to allow up to 120,000 ATMs while maintaining operating hours restrictions.
- 3.3 The CADP1 permission was approved jointly by the Secretaries of State (SoS) for Communities and Local Government and for Transport in July 2016 following an appeal and Inquiry which was held in March 2016.⁷ This permitted the comprehensive upgrade of infrastructure and passenger facilities at the Airport and permitted up to 111,000 ATMs. It also included an annual cap on passenger numbers of 6.5 million which was the first time this had been subject to controls. The restriction on operational hours, including weekend restrictions, was maintained in this scheme. A detailed description of the CADP1 scheme is set out in the banner heading of this report.⁸
- 3.4 The principal operational controls and restrictions are imposed on the Airport by the planning conditions attached to the CADP1 permission, including:

⁷ CD7.8

⁸ Page 6

- Condition 17 controls the time which aircraft can take-off and land at the Airport to between the hours of 0630-2200 Monday-Friday, 0900-2200 on Bank Holidays and Public Holidays (with the exception of Christmas Day) 0630-1230 on Saturdays and 1230-2200 on Sundays.
- Other conditions replicate these time restrictions in relation to aircraft maintenance and repair (condition 8); and ground running, testing and maintenance (condition 50).
- Condition 23 permits a maximum of 111,000 Actual Aircraft Movements at the Airport per calendar year. It also imposes daily limits with a maximum of 100 per day on Saturdays; 200 per day on Sundays (but not exceeding 280 on any consecutive Saturday and Sunday); 592 per day on weekdays; and individual limits for specified Bank Holidays.
- Condition 25 permits a maximum of 6 Actual Aircraft Movements between 0630 and 0659 hours on Mondays to Saturdays (excluding Bank Holidays and Public Holidays when the Airport shall be closed for the use or operation of aircraft between these times).
- In tandem with this, condition 26 requires that the number of Actual Aircraft Movements in the period between 0630 hours and 0645 shall not exceed 2 on any of these days.
- Condition 43 requires that the annual passenger throughput of the Airport shall not exceed 6.5 million passengers.
- A series of other conditions impose environmental controls and restrictions on the Airport, including operation of the Aircraft Noise Categorisation System (conditions 18 and 19); the Noise Management and Mitigation Strategy (condition 31); as well as other conditions relating to sustainability, biodiversity, air quality, lighting and surface access, amongst others.

- 3.5 The major CADP1 development works were completed between 2018 and 2020. These include:
- The construction of a taxiway parallel to the runway, the runway hold and the creation of a concrete deck over King George V Dock to provide eight new aircraft stands;
 - The erection of a temporary noise barrier to the east of the existing East Pier;
 - The installation of fish refugia;
 - The construction of the foundations and deck for the East Terminal Extension and New East Pier; and
 - The construction of temporary facilities at the Airport, including the temporary immigration facility, temporary outbound baggage structure, temporary goods-in facility, temporary single deck car park and temporary car rental building.
- 3.6 Construction was paused in 2020 due to the COVID-19 pandemic and has not been completed.
- 3.7 A number of other specific structures and airfield enhancements have been built out or have commenced since 2016. These do not form part of the

CADP1 permission and scheme, and have instead been implemented under the Airport's permitted development rights and include:

- The Digital Air Traffic Control Tower;
- New taxiway connection to the runway and extended taxiway fillets;
- Runway rehabilitation/ resurfacing;
- Replacement of sections of the airfield grassland with artificial grass; and,
- The installation of an Engineered Material Arrestor System at either end of the runway.

- 3.8 Since the CADP1 Permission was approved and implemented, approval has been granted for several non-material amendment applications which have made amendments to the CADP1 Permission. Shortly before the determination of CADP1 in 2016, outline planning permission was also granted for the erection of a 260-bedroom hotel and associated development which is extant.
- 3.9 A helpful summary of the planning applications at the Airport is contained within appendix 1 of the SoCG⁹ and the formal planning decision notices are contained within the Core Documents.¹⁰

4. THE PROPOSAL

- 4.1 The current application proposes to amend planning conditions attached to CADP1, pursuant to s73 of the Town and Country Planning Act 1990 (TCPA).
- 4.2 The application seeks to vary eleven of the conditions on the CADP1 which relate to conditions 2 (Approved documents) 8 (Aircraft Maintenance) 12 (Aircraft Stand Location) 17 (Aircraft Take-off and Land Times) 23, 25, 26 (Daily limits) 35 (Temporary Facilities) 42 (Terminal Opening Hours) 43 (Passengers) and 50 (Ground Running) to allow up to 9mppa (currently limited to 6.5 million) arrivals and departures on Saturdays until 1830 with up to 12 arrivals for a further hour during British Summer Time (currently allowed until 1230), modifications to daily, weekend and other limits on flights and minor design changes, including to the forecourt and airfield layout attached to the CADP1.
- 4.3 The Proposed Amendments (i.e. the amendment of the CADP1 Permission proposed by the S73 Application) can be broadly summarised as:
- An increase in the limit on passengers from 6.5 million passengers per annum (mppa) to 9mppa.
 - A proposed extension to operating hours on Saturday to allow take-off and landing up until 1830 and up until 1930 during British Summer Time for up to 12 arrivals.
 - Changes to the daily limit of flights within the first half-hour (0630-0700) from 6 to 9.
 - Changes to operational hours of the Terminal (to 2000 on Saturdays), Ground Running and Aircraft Maintenance (until 1830) to reflect the proposed extension to flight times.

⁹ CD11.2

¹⁰ CD7.1-CD7.8

- Changes to the location of aircraft stands to allow greater flexibility due to increased wingspan of new generation aircraft and alterations to the amount of hardstanding.
 - Changes to the approved plans and documents to reflect the above changes and to incorporate changes to approved documents resulting from the passage of time since the granting of the parent permission.
- 4.4 Minor changes are proposed to the approved CADP1 physical works. An updated 2022 Site Plan (1.0B) was prepared to reflect progress in the build out of CADP1 (Ref: A400- PAW-A-14-XXX-DR-GA-900-004 S2) since the original permission was issued. The 2022 Site Plan is cross referenced on a number of the application plans/sets in order to make clear the current status of the works. The principal changes relate to 'Application Set 5.0' where the partial build out of CADP1 and related temporary Permitted Development facilities has required minor revisions to the previously approved layout of the temporary coaching facility. Changes to 'Application Set 7.0' are also proposed but are limited to minor changes to the terminal forecourt to reflect changes to modal split assumptions since the plans were originally approved as part of the CADP1 Permission.
- 4.5 The consented forecourt design has been amended to accommodate the revised passenger demand up to 9mppa and to reflect developments in the transport modal split.
- 4.6 The proposal would not alter the CADP1 permission description of development, and the red line planning application boundary for the proposal would remain the same as that of the CADP1 Permission. The proposal does not involve any changes to airspace: such changes are the subject of a separate regulatory regime.
- 4.7 For clarity, no changes are proposed to:
- The number of ATMs per year (which remains 111,000) and ATMs per hour (which remains 45).
 - The proposed uses, amount of floorspace or location, position or design of the previously approved terminal buildings and piers.
 - The 8-hour night-time curfew midweek and the Sunday morning curfew (with no flights before 1230).
 - The number of aircraft stands, the runway, other infrastructure or the design and layout of the buildings as approved under the CADP1 permission and subsequently varied by several non-material amendment applications.

5. THE ENVIRONMENTAL STATEMENT

- 5.1 The CADP1 scheme qualified as an Environmental Impact Assessment (EIA) development and therefore an Environmental Statement (ES) accompanied that application. The current application was submitted with an updated ES to assess the likely significant effects on a number of topic areas scoped into the

report. As part of the Scoping Opinion, a number of topics were scoped out and dealt with briefly as one topic.¹¹

- 5.2 A critical review of the ES was carried out by an external team led by LUC Limited for LBN. This used Institute of Environmental Management and Assessment (IEMA) criteria which includes general criteria looking at the information contained in the ES, issue specific criteria address the baseline conditions; assessment of impacts; and mitigation measures and management.
- 5.3 LUC Limited provided an initial draft report which assessed each chapter of the ES and identified areas in which clarifications or further information was required. It also identified potential requests under Regulation 25 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2017 (EIA Regs), along with a number of suggested planning conditions for each topic within the ES.
- 5.4 Accordingly, further information was submitted to LBN which was assessed and reported by LUC Limited within a final review report. The final review report concluded that the Applicant had sufficiently responded to all clarifications and potential Regulation 25 requests and that no further information was required to assess the ES. The ES was considered to provide a thorough and robust assessment of the baseline conditions and enabled a rigorous assessment of the likely significant environmental effects of the development.
- 5.5 Notwithstanding the acceptability of the proposal, we consider that the ES is satisfactory in terms of Schedule 4 of the EIA Regs. We have taken account of the ES accordingly.

6. PLANNING LAW, POLICY AND GUIDANCE

The Development Plan and other Local and National Policy

- 6.1 Applications for planning permission should be determined in accordance with the development plan, unless material considerations indicate otherwise. Here, the development plan comprises the London Plan March 2021 (LP)¹² and the Newham Local Plan December 2018 (NLP) and policies map.¹³ Also relevant is the Royal Docks and Beckton Riverside Opportunity Area Planning Framework (OAPF) 2023.¹⁴ The NPPF and NPPG are also material considerations.¹⁵
- 6.2 LBN has commenced a local plan review, however given the early stage in the preparation of the plan, there was general agreement that very little weight

¹¹ Water Resources and Flood Risk; Townscape and Visual Effects; Ecology and Biodiversity; Archaeology and Built Heritage; Ground Conditions and Contamination; Waste; Major Accidents and Disasters CD1.07 to CD1.61 incl.

¹² CD3.3.1

¹³ CD3.4.1 and CD3.4.2

¹⁴ CD3.10.01

¹⁵ CD3.2.1 is superseded by INQ18

can be given to draft policies within it. This is not relied upon for the purpose of this report.

- 6.3 A significant number of relevant policies from both the LP and NLP are identified in the SoCG.¹⁶ We summarise below those policies which are most pertinent to this appeal beginning with the policies quoted by LBN in their reasons for refusal (RfR).¹⁷
- 6.4 LP Policy T8 (Aviation) is a strategic policy for all of the London Airports. Part A supports the role of airports serving London in enhancing the city's spatial growth, particularly within Opportunity Areas well connected to the airports by public transport and which can accommodate significant numbers of new homes and jobs. Part B states that environmental and health impacts of aviation must be fully acknowledged and should include mitigation measures that fully meet their external and environmental costs, particularly in terms of noise, air quality and climate change. Any airport expansion scheme must be appropriately assessed and if required demonstrate that there is an overriding public interest or no suitable alternative solution with fewer environmental impacts. Parts C-G cover matters such as Heathrow Airport, passenger movements, traffic movements, stakeholder engagement.
- 6.5 Part H of policy T8, relates to general business and aviation activity and states that this should only be supported if it would not lead to additional environmental harm or negative effects on health. The supporting text¹⁸ and glossary¹⁹ explains what this is in further detail. This clearly relates to ad hoc aviation services and activities including private jets, recreational flying and pilot training. This part of the policy therefore does not apply to this appeal as the services at the Airport are commercial.²⁰
- 6.6 Paragraphs 10.8.3-10.8.5 and 10.8.8 of the supporting text clarify some of the policy objectives in terms of making best use of airport capacity, as well as environmental issues such as noise and air quality. Aviation impacts on climate change must be fully recognised and emissions from aviation activities must be compatible with national and international obligations to tackle climate change. The implications for other sectors and other airports must also be fully understood when expansion proposals are brought forward, and aviation greenhouse gas emissions must be aligned with the Mayor's carbon reduction targets.
- 6.7 Policy D13 (Agent of Change) encompasses the Agent of Change principle enshrined in the NPPF and NPPG. Part B requires that development should be designed to ensure that established noise and other nuisance-generating uses remain viable and can continue or grow without unreasonable restrictions being placed on them. Part C requires that new noise and other nuisance-generating development proposed close to residential and other noise-sensitive uses should put in place measures to mitigate and manage any noise impacts for neighbouring residents and businesses. Part E states that

¹⁶ CD11.2 Appendix 3

¹⁷ LP Policies T8 and D13 and well as NLP Policies SP2 and SP8 as specified in CD4.4

¹⁸ CD3.3.1 page 441, para 10.8.10

¹⁹ Ibid, page 491

²⁰ This was debated by LBN who said it was relevant.

- Boroughs should not normally permit development proposals that have not clearly demonstrated how noise and other nuisances would be mitigated and managed.
- 6.8 Policy SP2 (Healthy Neighbourhoods) of the NLP recognises the role of planning in doing so through the creation of healthy neighbourhoods and places. Criterion 1.a.iii. recognises *"the need to improve employment levels and reduce poverty, whilst attending to the environmental impacts of economic development including community/ public safety, noise, vibrations and odour...."*
- 6.9 Policy SP8 (Ensuring Neighbourly Developments) of the NLP sets out strategic principles and spatial strategy in terms of good neighbourliness under part 1. Part 2.a.xi. seeks to avoid unacceptable exposure to light (including light spillage), odour, dust, noise, disturbance, vibration, radiation and other amenity or health impacting pollutants in accordance with policy SP2.
- 6.10 In terms of other policies in the development plan which are relevant, the broad principles for OA's are established in LP Policy SD1 (Opportunity Areas). This policy underpins the OAPF which notes that this is one of the largest regeneration areas in London and notes the Airport as an economic asset.
- 6.11 The Airport is referenced at numerous points within the NLP in respect of safeguarding, optimisation of airport capacity, business and jobs growth, sustainable and strategic transport infrastructure. It is recognised as a major employer and catalyst for investment in the area, supporting London's international role.
- 6.12 In particular, NLP Policy SP1 (Spatial Strategy and Strategic Framework) seeks to secure transformational change in the Borough and recognises that the greatest opportunities to achieve this will come forward through the mapped 'Arc of Opportunity' area, which includes the Royal Docks, within which the Airport is located. More specifically, criterion 2.g of Policy S3 (Royal Docks) recognises that the Airport will continue to perform an important role in the areas international business and visitor connectivity and as the focus to an employment hub with measures implemented to support the optimisation of existing capacity and further mitigation of its environmental impacts, including improvements to public transport. It also seeks the delivery of over 8000 new homes. Policy J1 (Business and Jobs Growth) also seeks to support the existing business base on the Borough, facilitate the continued diversification of the economy and focus facilities at the Airport.
- 6.13 Like earlier versions, the revised NPPF emphasises that the purpose of the planning system is to contribute to the achievement of sustainable development. It makes it plain that planning policies and decisions should play an active role in guiding development towards sustainable solutions, but should take local circumstances into account, to reflect the character, needs and opportunities of each area. There is a presumption in favour of sustainable development at the heart of the NPPF which means that the planning system has three overarching objectives. These are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives).

6.14 The objectives as set out in paragraph 8 state:

- a) An economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
- c) an environmental objective – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

6.15 Paragraph 191 of the NPPF states that decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. Criterion a) notes that decisions should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development, and avoid noise giving rise to significant adverse impacts on health and the quality of life.

National Aviation Policy

6.16 The *Aviation Policy Framework* (March 2013)²¹ (APF) sets out the Government's high-level objectives and policy, whereby the aviation sector is seen as a major contributor to long-term economic growth. Support is given to growth which maintains a balance between the benefits of aviation and its costs, particularly in relation to negative effects on climate change, noise and air pollution.

6.17 The *Airports National Policy Statement* (June 2018)²² (ANPS) is principally concerned with a third runway at Heathrow. However, it states that it is supportive of airports beyond Heathrow making best use of their existing runways. It also recognises that the development of airports can have positive and negative impacts, including on noise levels. It states that any proposals should be judged on their individual merits by the relevant planning authority, taking careful account of all relevant considerations, particularly economic and environmental impacts.

²¹ CD3.5.01

²² CD3.5.02

- 6.18 *Beyond the Horizon – The Future of UK Aviation: Making Best Use of existing runways* (June 2018)²³ (MBU). This document is consistent with the ANPS in that it reiterates making the best use of existing runway capacity and positive and negative environmental impacts. It also notes impacts on communities living near airports and states that it is important that communities surrounding those airports share in the economic benefits of this, and that adverse impacts such as noise are mitigated where possible.
- 6.19 *Flightpath to the Future* (May 2022)²⁴ (FTTF) sets out a strategic framework for the aviation sector. This document recognises the impacts of the COVID-19 pandemic and sets out a 10-point plan to enhance global impact for a sustainable recovery, embrace innovation for a sustainable future, realise benefits for the UK and deliver for users. It supports growth in airport capacity to boost global and domestic connectivity and levelling up in the UK where it can be delivered within the UK's environmental obligations.
- 6.20 FTTF makes reference to the intention to achieve the UK's net zero target in carbon emissions by 2050 and the reduction of the localised impacts of aviation from noise and air pollution. It also confirms that ANPS and MBU have full effect as a material consideration in decision making on applications for planning permission.

Other policy documents

Noise Policy

- 6.21 National policy on noise is set out in the *Noise Policy Statement for England* (2010) (NPSE)²⁵ which aims to avoid, minimise, mitigate and where possible reduce significant adverse impacts on health and quality of life.
- 6.22 NPSE sets out a noise exposure hierarchy, with the NPPG setting out further detailed guidance. The Lowest Observed Adverse Effect Level (LOAEL) is the level above which adverse effects on health and quality of life can be detected whereby mitigation and reduction to a minimum is necessary. Significant Observed Adverse Effect Level (SOAEL) is the level above which significant adverse effects on health and quality of life occur and should be avoided. Such effects include material changes in behaviour (e.g. keeping windows closed most of the time), and potential for sleep disturbance including getting to sleep, premature awakening and difficulty going back to sleep. At this level quality of life is diminished. The NPPG also introduces the concept of Unacceptable Adverse Effect Level (UAEL).
- 6.23 Both LOAEL and SOAEL recognise the need to take account of economic and social benefits of the activity causing or affected by the noise, although at SOAEL it is undesirable for such exposure to be caused.
- 6.24 With specific regard to aviation noise, the NPPG notes that where airport expansion is considered through the planning system, it will be important for decisions to consider any additional or new impacts from that expansion. The NPPG also recognises that noise is a complex technical issue, and that the

²³ CD3.5.03

²⁴ CD3.5.06

²⁵ CD3.7.02

subjective nature of noise means that there is not a simple relationship between noise levels and the impact on those affected. Factors include the source and absolute level of noise (including night-time noise), number of noise events and the frequency and pattern of non-continuous sources, frequency, the acoustic environment, and spectral content and general noise character.²⁶

- 6.25 The NPPG notes that noise can override other planning concerns where justified, but it is important to look at noise in the context of the wider characteristics of a development proposal, its likely users and its surroundings, as these can have an important effect on whether noise is likely to pose a concern.²⁷
- 6.26 The *Overarching Aviation Noise Policy Statement* (March 2023)²⁸ (OANPS) is a policy paper which sets out the revisions to the Government's Aviation Noise Policy, noting its intention to publish a noise policy paper. This states that:
- "The government's overall policy on aviation noise is to balance the economic and consumer benefits of aviation against their social and health implications in line with the International Civil Aviation Organisation's Balanced Approach to Aircraft Noise Management. This should take into account the local and national context of both passenger and freight operations, and recognise the additional health impacts of night flights.*
- The impact of aviation noise must be mitigated as much as is practicable and realistic to do so, limiting, and where possible reducing, the total adverse impacts on health and quality of life from aviation noise."*
- 6.27 The OANPS also clarifies that an overall reduction in total adverse effects is desirable, but in the context of sustainable growth an increase in total adverse effects may be offset by an increase in economic and consumer benefits. In circumstances where there is an increase in total adverse effects, "limit" would mean to mitigate and minimise adverse effects, in line with the NPSE.
- 6.28 As referenced above, other general aviation policy has specific regard to noise. The APF notes that the 57dB $L_{Aeq,16h}$ contour as the average level of daytime aircraft noise marking the approximate onset of significant community annoyance. However, this does not mean that all people within this contour would experience significant adverse effects from aircraft noise. Nor does it mean that no-one outside of this contour would consider themselves annoyed by aircraft noise.²⁹ The APF also recognises that people do not experience noise in an averaged manner and that the value of the L_{Aeq} indicator does not necessarily reflect all aspects of the perception of aircraft noise. Average noise contours should not therefore be the only measure used when airports seek to explain how locations under flight paths are affected by

²⁶ Paragraph: 003 Reference ID: 30-003-20190722 and Paragraph: 006 Reference ID: 30-006-20190722

²⁷ Paragraph: 002 Reference ID: 30-002-20190722

²⁸ CD3.7.03

²⁹ CD3.5.01, page 58, para 3.17

aircraft noise. Alternative measures which better reflect how aircraft noise is experienced in different localities are encouraged, developing these measures in consultation with their consultative committee and local communities. The objective should be to ensure a better understanding of noise impacts and to inform the development of targeted noise mitigation measures.³⁰

- 6.29 The NPPF cross references to the NPSE at paragraph 195, setting out a requirement to mitigate and reduce to a minimum potential adverse impact resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and the quality of life.

Economic Policy

- 6.30 The *Levelling Up White Paper* (February 2022) sets out a long-term strategy programme of levelling up, which forms a key part of the Government's Build Back Better Strategy. It seeks to address economic underperformance, recognising that even in high productivity cities, such as London, there are areas with low productivity.
- 6.31 At paragraph 85, the NPPF states that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future.

Climate Change

- 6.32 The *Climate Change Act* (2008)³¹ (CCA) provides the legal framework which underpins much national policy on climate change and emissions. As amended in 2019, the CCA contains obligations in terms of achieving a 100% reduction in greenhouse gas emissions from 1990 levels by 2050, as well as the requirement to set carbon budgets for five-year periods, to ensure that the target is met. The CCA also established the Climate Change Committee (CCC) who advise the Government.
- 6.33 The further carbon budget (2023-2027) was set at 1,950 MtCO₂e and the fifth budget (2028-2032) was set at 1725 MtCO₂e. The sixth carbon budget (2033-2037) was set at 965 MtCO₂e and, for the first time, includes emissions from international aviation.
- 6.34 The *Jet Zero Strategy: Delivering Net Zero Aviation by 2050* (July 2022)³² (JZS) commits the UK aviation sector to reach net zero or 'Jet Zero' by 2050 and sets decarbonising goals. Domestic flights and airport operations are expected to reach the Jet Zero target by 2040. The document notes that the transition presents unique opportunities to create new jobs, industries and technologies across the entire sector. Sustainable Aviation Fuels (SAF) are identified as a key level to accelerate the transition to Jet Zero. It also cotes co-benefits of efficiencies made including reducing local air pollution and noise for local communities.

³⁰ CD3.5.01, page 58, para 3.19

³¹ CD3.9.09

³² CD3.5.07

- 6.35 On carbon emissions, JZS provides an analysis with regard to airport expansion plans which indicates that it is possible for the potential carbon emissions resulting from these expansion schemes to be accommodated within the planned trajectory for achieving net zero emissions by 2050, and consequently that our planning policy frameworks remain compatible with the UK's climate change obligations.

Air Quality

- 6.36 The UK's legal framework for protection of the natural environment, the *Environment Act 2021*,³³ passed into UK law in November 2021. This gives the Government the power to set long-term, legally binding environmental targets. However, guidance is yet to be published advising decision makers on how the targets should be integrated into the planning system. Accordingly, local authorities should continue to assess local air quality impacts in accordance with existing guidance.
- 6.37 The *Air Quality Strategy*³⁴ provides the policy framework for air quality management and assessment in the UK. It provides air quality standards and objectives for key air pollutants, which are designed to protect human health and the environment. The strategy describes the Local Air Quality Management (LAQM) regime that has been established, whereby every authority has to carry out regular reviews and assessments of air quality in its area to identify whether the objectives have been, or will be, achieved at relevant locations, by the applicable date. If this is not the case, the authority must declare an Air Quality Management Area (AQMA), and prepare an action plan which identifies appropriate measures that will be introduced in pursuit of the objectives.
- 6.38 The Government's *Ten Point Plan for a Green Industrial Revolution*³⁵ is primarily focused on decarbonising the UK economy. Point 6: Jet Zero and Green Ships, aims to encourage the use of SAF, and proposed to consult on a SAF mandate. The consultation ran in summer 2021, and resulted in a policy for at least 10% of jet fuel to be made from sustainable sources (achieving at least 50% greenhouse gas savings relative to fossil jet fuel) by 2030.
- 6.39 The *Air Quality Strategy: Framework for Local Authority Delivery 2023*³⁶ sets out the strategic air quality framework for local authorities and other Air Quality Partners in England. It sets out powers and responsibilities, and actions that local authorities are expected to take, however it does not replace other air quality guidance documents relevant to local authorities.
- 6.40 The NPPF sets out at paragraph 180(e) that decisions should prevent new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by unacceptable levels of air pollution. Development should, wherever possible, help to improve local environmental conditions such as air quality. It goes on to advise that decisions should contribute towards compliant with relevant limit values or national objectives

³³ CD3.1.5

³⁴ CD3.6.08

³⁵ CD3.6.14

³⁶ CD3.6.15

for pollutants. The NPPF is supported by the NPPG which includes guiding principles on how planning can take account of the impacts of new development on air quality.

Other Relevant Policy and Guidance

- 6.41 LCY published a *Master Plan*³⁷ in 2020. This sets out long term ambitions including a vision for growth and a sustainability and environmental strategy, which includes noise, air quality and carbon and climate change.
- 6.42 A wide range of other policy documentation was presented before the Inquiry. The above summary is not exhaustive and where relevant, other material was relied upon by the Inspectors and is cited throughout this report.

7. AGREED MATTERS

- 7.1 A signed SoCG³⁸ between LBN and LCY was submitted ahead of the opening of the Inquiry. HACAN East were not a party to the SoCG. The SoCG sets out matters of agreement in terms of general matters such as the site and surroundings, the application process, the appeal proposals, the planning policy framework, and the ES, which have been used to inform the above sections in this report. Overall planning considerations, reporting and monitoring and conditions and obligations are also covered.
- 7.2 Agreement in respect of individual topics are clearly set out in tables. In respect of the main focus of the Inquiry, section 8 sets out agreed matters on economic and consumer benefits. These include:
- 7.2.1 The approach to forecasting and the potential of the Airport to grow to 9mppa.
 - 7.2.2 The incentives for airlines to re-fleet faster to newer, quieter aircraft in the Development Case (DC Scenario).
 - 7.2.3 The study area for economic benefits, including the site, the Borough of Newham, the local area³⁹ and London.
 - 7.2.4 The approach to economic impact modelling, which includes construction impacts, operational impacts and wider economic benefits.
 - 7.2.5 The use of output metrics, including Gross Value Added (GVA), to consider economic and consumer effects.
 - 7.2.6 The broad economic and consumer benefits of the Proposed Amendments. These would:

³⁷ CD5.1

³⁸ CD11.2

³⁹ As per the CADP1 appeal which encompasses the London Boroughs of Barking and Dagenham, Bexley, Greenwich, Hackney, Havering, Lewisham, Redbridge, Southwark, Tower Hamlets and Waltham Forest as well as the District of Epping Forest.

- Boost business productivity, supporting the growth of and investment in key sectors in the local economy equivalent to £398 million a year by 2031 (£99 million more than in 2019).
- Support tourist expenditure in London of £558 million a year by 2031, (£227 million more than 2019) and have a net positive impact on socio-economic welfare of £371 million over the next 60 years.
- Support the Global Britain and economic recovery agendas more generally.
- Bring London City Airport's total annual GVA contribution to over £1.6 billion (an increase of £702m over 2019 levels).⁴⁰
- Deliver an additional 1,340 jobs (1,170 FTEs) at the Airport by 2031 compared to 2019 supporting additional GVA of £144m, bringing the total number employed onsite to 3,650 (3,230 FTEs). Of these, 330 jobs are expected to be in management, professional and technical roles; 240 jobs are expected to be in administrative, trade and services roles; and 770 jobs are expected to be in sales, process and elementary roles.
- Result in 4,470 additional jobs (3,750 FTEs) across London by 2031 compared to 2019, as well as £702m in additional GVA. This includes 830 additional jobs through supply chain and spending effects, supporting additional GVA of £105m and a further 2,300 jobs through catalytic effects (supported as a result of increased inbound tourism and increases in business productivity), supporting £453m of additional GVA.
- The benefits would have an overall beneficial effect.

7.3 In terms of noise, as a substantive topic, section 9 of the SoCG covers matters agreed by LCY and LBN. These include:

- 7.3.1 Methodological matters including scenarios, forecasting, and noise modelling software, inputs and receptors.
- 7.3.2 The primary indices are the daytime $L_{Aeq,16h}$ and the nighttime $L_{Aeq,8h}$ for the summer period. The ES also assessed additional supplementary indicators which include the number of people likely to be highly annoyed, the number of people likely to be highly sleep disturbed, and N65 noise contours.
- 7.3.3 A difference historically applied at the Airport, and again in the ES, is to include the 0630-0700 movements in the daytime index. This means it allows for all the movements. The effect, compared to following the conventional approach, is that the daytime noise contours would be very slightly larger, due to the relatively small number of movements before 0700 being added to the much larger number of movements in the 0700 to 2230 period. This departure

⁴⁰ CD1.05, page 48, Table 7.1

from convention is not considered significant given the small effect and that the same approach is applied for all scenarios.

- 7.3.4 The thresholds for SOAEL and LOAEL are based on Government guidance and established practice. For daytime noise the LOAEL is 51dB $L_{Aeq,16h}$ and the SOAEL 63dB $L_{Aeq,16h}$. For nighttime noise the LOAEL is 45dB $L_{Aeq,8h}$ and the SOAEL 55dB $L_{Aeq,8h}$.
- 7.3.5 The study area is based on the extent of the noise contours prepared corresponding to the lowest observed adverse effect level (LOAEL). The resulting area extends up to 7.5 km to the east, 7.5 km to the west, 5.5 km to the north and 2.5 km to the south of the Airport runway. For some of the supplementary metrics, the modelling also extends beyond this study area.
- 7.3.6 The approach to assessing the overall daytime and nighttime 'significance'. Where the resulting noise level is above the LOAEL but below the SOAEL then a change of less than 3dB has been considered not significant. This is consistent with the CADP1 application and practice elsewhere. Where the resulting noise level is above the SOAEL then a change of less than 2dB has been considered not significant. This is more stringent than for the CADP1 application where a change of 3dB was the threshold for significant effects.⁴¹
- 7.3.7 The number of people exposed to significant levels of daytime noise would reduce by 2031 compared to 2019. This is primarily due to the change in aircraft utilising the Airport, with more of the cleaner, quieter, new generation aircraft introduced over time. This is in line with that predicted for the CADP1 permission.
- 7.3.8 The proposed mitigation represents an improvement from that currently secured under CADP1 and is in accordance with good practice. This includes changes to the noise insulation scheme which would include changes to the eligibility criteria and funding.
- 7.3.9 Allowing for the proposed mitigation the effects on the overall daytime noise are not considered significant. The air noise assessment finds that the area of the 57dB contour is forecast to reduce compared to 2019 and be around 20% less than the current contour area limit by 2031. The number of people significantly affected by daytime air noise is also expected to reduce by 2031 compared to 2019, due to the introduction of quieter aircraft over time. These changes show the Airport would share the benefits of the noise reduction from the new generation aircraft with local communities. Overall noise would be very similar in 2025 with or without the Proposed Amendments.
- 7.3.10 The airlines are expected to re-fleet to quieter new generation aircraft sooner with the DC Scenario. This results in overall noise being lower in 2027 with the DC Scenario than without. In general, by 2031 the

⁴¹ This remains less stringent than used for the Luton Airport Development Consent Order (DCO) Application but is consistent with the latest Bristol Airport application which was determined on appeal (CD8.01).

forecast increase in flights with the DC Scenario would result in overall noise being slightly greater with the DC Scenario than without, but still less than what occurred in 2019.

- 7.3.11 These matters are agreed with the exception of the Saturday afternoon curfew.
 - 7.3.12 Other forms of noise in terms of construction noise, vibration, and surface access noise would not give rise to significant environmental effects with the DC Scenario.⁴²
 - 7.3.13 Similar conclusions are reached in respect of aircraft ground noise. A small proportion of dwellings are forecast to experience potentially significant moderate increases in daytime, night-time and weekend ground noise. Most of these are in nearby student accommodation blocks. All of the dwellings exposed to potentially significant moderate increases in ground noise are within the Airport's air noise sound insulation scheme (SIS) or the construction sound insulation scheme (CSIS). They are therefore eligible for, or already treated by, these schemes or were already designed with a good standard of sound insulation. These increases in ground noise are therefore not forecast to result in significant effects.
 - 7.3.14 For LBN, while its concern about the loss of Saturday afternoon curfew is driven by air noise, associated ground noise from aircraft noise movements in the curfew period has also to be taken into account. The loss of the Saturday afternoon curfew period is considered significant by LBN.
- 7.4 Other matters are also covered in the SoCG. For air quality, section 10 states that there is no disagreement between LBN and LCY as air quality impacts would not be materially greater than those impacts under the CADP1 permission, which were deemed acceptable. Agreed matters are summarised as:
- 7.4.1 Methodological matters including forecasting, study area, modelling, metrics and outputs.
 - 7.4.2 There are some disagreements about the details of the modelling methodology (e.g. related to model verification etc.), but LBN and LCY agree that they would have no material effect on the conclusions of the assessment.
 - 7.4.3 It is agreed that it is not possible to quantify the emissions of ultra fine particles (UFPs) from either aircraft or other combustion sources (including road traffic), and it is therefore not possible to predict future UFP concentrations. There are no standards or guidelines related to UFPs in relation to public health. It is agreed that the issue of potential UFP impacts can be dealt with by way of a Condition related to monitoring.

⁴² INQ11.2, Table 9

- 7.4.4 There would be a negligible impact for all Scenarios and pollutants based on the current air quality objectives. When compared to the GLA PM2.5 target of 10 µg/m³ to be achieved by 2030, the impact at two receptors in Camel Road in 2031 is 'moderate adverse'.
 - 7.4.5 Specific mitigation for the S73 Proposed Development is not required, since the Air Quality Assessment concludes that there are no likely significant effects. There are measures within the Air Quality Management Strategy (AQMS), that have been agreed with LBN, and additional measures are set out in the Air Quality Positive Statement.
 - 7.4.6 Overall, the effect is not significant for all impacts, and there is no material difference in the conclusion of this assessment and the assessment made under the CADP1 permission. Where there are points of disagreement, they are not sufficient to affect the overall conclusion.
- 7.5 Matters relating to energy, carbon emissions and climate change were not advanced as a reason for refusal by LBN. The following matters are agreed between LBN and LCY, as outlined in section 11 of the SoCG:
- 7.5.1 It is legitimate to assume that the UK Government will comply with its duty under the CCA 2008 and will prepare policies and proposals with a view to meeting the carbon budgets including the UK Emissions Trading System and the UK's participation in the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA).
 - 7.5.2 The proposal is consistent with the Government's Jet Zero Policy and the growth in capacity proposed to 9mppa is less than the 11mppa assumed by Jet Zero.
 - 7.5.3 For national carbon budgets, it would be unreasonable to conclude that the net increase in greenhouse gas emissions associated with the proposals would materially impact the ability of Government to meet its carbon reduction targets.
 - 7.5.4 In terms of the methodology, the scope of the ES assessment⁴³ is appropriate, including the use of Institute of Environmental Management and Assessment (IEMA) guidance for assessment of greenhouse gas (GHG) and climate change resilience effects.
 - 7.5.5 Non-aviation sources of emissions which the Airport can control itself are zero after 2030 due to measures adopted by the Airport to meet its net zero target, including implementation of its energy strategy.
 - 7.5.6 Emissions from staff and passengers fall over time despite growing passenger numbers due to modal shift to public transport as well as the ongoing decarbonisation of transport.
 - 7.5.7 Carbon emissions from non-aviation sources are not considered to be significant in comparison to the extant permissions.

⁴³ CD1.18

- 7.5.8 Proposed improvements relative to the CADP1 permission fallback weigh positively in the planning balance. The revised energy strategy for the CADP1 buildings, which accompanies this appeal application, demonstrates how a 25% reduction in energy demand can be achieved (compared to a 15% target in the LP) and how a 46% CO₂ reduction can be achieved (compared to a 35% target in the LP).
- 7.5.9 Aircraft emissions are the single largest source of emissions and are higher in 2031 compared to 2027, driven by increasing passengers and passenger km travelled. However, emissions then fall significantly by 2050 due to increasing take up of SAF, use of Zero Emission Aircraft and ongoing fuel efficiency improvements of conventional aircraft consistent with the Department for Transport's (DfT) JZS high ambition scenario.
- 7.5.10 Between 2019 and 2050 the Proposed Amendments result in a 93% reduction in CO₂e/pax emissions compared to the emissions in 2019.
- 7.5.11 The assessment in Chapter 11 of the ES⁴⁴ is based on the modelling of future aircraft emissions in 2024, 2027, 2031 and in 2050 for the Proposed Amendments (i.e. the amendment of the CADP1 Permission proposed by the S73 Application), as well as a 2019 baseline. The assessment finds that between 2019 and 2031 the Proposed Amendments result in a reduction in aircraft CO₂e /per passenger emissions of 27% with the development (DC Scenario) compared to 18% without the development (DM Scenario). The assessment of the DC Scenario finds that in 2027, 2031 and 2050 at least 99% of aircraft emissions are covered through the United Kingdom Emissions Trading Scheme (UK ETS).
- 7.6 In terms of surface access (section 12), there is agreement that impacts can be addressed through the use of conditions and planning obligations. Transport for London (TfL) has also been engaged in the process on this topic.
- 7.6.1 The general methodological approach, study area and forecasting within the ES⁴⁵ is agreed. The Airport is well served by existing and proposed future public transport with capacity to absorb additional public transport demand associated with the proposed development by 2031.
- 7.6.2 In addition to the recent opening of the Elizabeth Line at Custom House, TfL have proposals to run an additional bus route to the Airport via the Silvertown Tunnel, both of which would enhance public transport capacity to/from the Airport.
- 7.6.3 Guidance suggests traffic volume changes of less than 30% on all local and strategic roads that are deemed non-sensitive could be reasonably considered as not significant. In this instance, a more conservative approach was adopted and consideration was given to the potential environmental impact on all roads that experience a

⁴⁴ CD1.18

⁴⁵ CD1.17

- predicted 10% or greater rise in traffic flows when comparing the DM Scenario with the DC Scenario in the principal assessment year (2031).
- 7.6.4 With regard to surface access, the appeal proposal is consistent with development plan policy and the NPPF.
- 7.6.5 No additional parking is proposed encouraging greater use of sustainable modes of travel.
- 7.6.6 The Airport is well connected through existing and proposed new bus routes that enable access for passengers and staff from the local community to travel to and from the Airport. Bus services also provide onward connectivity to the wider public transport network.
- 7.6.7 A Framework Travel Plan is included as part of the proposals and this would be further developed for the period to 2031 (the current Travel Plan to 2025 is currently under review with LBN) and this would help to achieve the Airport's mode share targets.
- 7.6.8 To achieve targets for improved passenger and staff travel by sustainable modes, it is agreed that further investment is required and LCY is proposing a new Sustainable Transport Fund (STF). The fund has potential to be subsidised by a levy on car users, e.g. from a proportion of car parking revenue or forecourt charges and can be used to contribute to surface access projects which help LCY achieve its mode share targets. The STF would operate for a minimum of 7 years and would be managed by LCY in consultation with the Airport Transport Forum, which includes local authorities, transport providers and neighbouring landowners.
- 7.7 For health, the conclusions of the assessment in the ES⁴⁶ are agreed in section 13 of the SoCG.
- 7.7.1 There is agreement on the air quality assessment conclusions that there would be a minor adverse (not significant) population health effect.⁴⁷
- 7.7.2 There is agreement on the noise assessment conclusions that there would be minor adverse (not significant) population health effects.
- 7.7.3 There is agreement on the noise assessment conclusions⁴⁸) that there would be minor adverse (not significant) population health effects.
- 7.7.4 LBN does not consider noise health impacts to be a reason for refusal. Concern around the loss of the Saturday afternoon curfew and other noise policy matters are not relevant to the community health assessment, which is common ground.

⁴⁶ CD1.19

⁴⁷ Ibid, sections 12.15, 12.16 and 12.21

⁴⁸ Ibid, sections 12.9, 12.10, and 12.21

7.7.5 There is agreement on the socio-economic assessment conclusions⁴⁹ that there would be moderate beneficial (significant) population health effects.

7.8 Matters that are not agreed by LBN and LCY are set out in section 17 of the SoCG. These relate to forecasting, and noise. These matters form the main considerations and are dealt with later in this report.

8. THE CASE FOR LONDON CITY AIRPORT

Introduction

- 8.1 Airports, and airport expansion, play a critical role in boosting both global and domestic connectivity and levelling up in the UK.⁵⁰ National policy recognises the role of airports as engines of economic growth, supporting trade, inward investment, tourism, economic prosperity and significant numbers of jobs. It is for this reason that Government policy remains supportive of airports bringing forward expansion plans in order to make best use of their existing infrastructure.
- 8.2 In this context, LCY seek to amend certain conditions that currently limit operations. These amendments would have a substantial positive socio-economic impact on the local area as real world benefits for real people including; opportunities for skills training, jobs, the chance to travel from their local airport, increased economic activity in their local area, and further investment in the place that they live and work. These benefits are particularly important in the context of the local area around the Airport.
- 8.3 The Airport sits in the heart of the Royal Docks and Beckton Riverside OA, one of the largest such areas in London. The OA has been identified to provide some 30,000 new homes and 41,500 new jobs over the next 20 years.⁵¹ The Airport is recognised as an “*anchor*” economic asset of regional and international importance, a “*key local employer*” and a “*catalyst for investment within the area*”.⁵² In 2019, the Airport employed 2,310 on site and generated a further 850 jobs within the local area or 1,370 across London, through its supply chain and induced effects. NLP policy supports the optimisation of existing capacity at the Airport, alongside further mitigation of its environmental impacts.⁵³
- 8.4 The importance of job creation for the local area is significant. A large proportion of LBN falls within the top 30% most deprived areas in relation to income and employment. The Airport itself lies within an area that is amongst the 20% most deprived in the UK and is close to significant areas within the 10% most deprived areas with very high levels of deprivation. The identification of East London as a priority area for levelling up is largely driven

⁴⁹ CD1.19, sections 12.13, 12.14, 12.20 and 12.21

⁵⁰ CD3.5.06, page 28

⁵¹ CD3.10.1, page 6

⁵² Ibid, page 113 and section 1.1 and CD3.4.1, page 28, para 1.23

⁵³ CD3.4.1 Policy S3(xviii)

by unemployment and a lack of jobs. The Proposed Amendments represent a significant opportunity for the local area and could play a role in "*putting Newham back on the map*."⁵⁴

- 8.5 The Proposed Amendments would allow LCY to recover from the effects of the COVID-19 pandemic. It would create the conditions in which there is a strong incentive for airlines to re-fleet, thereby delivering real noise benefits throughout the week. This would support the LCY's recovery, while bringing significant economic, consumer and other benefits.

Preliminary Points

Context and nature of the application

Planning context

- 8.6 The Airport was originally granted planning permission in May 1985. Operating hours were restricted to 0630 to 2200 Mondays to Saturdays and 0900 to 2200 on Sundays and public holidays, with an exception being made in emergencies. Since then, a number of planning permissions and variations have been granted. A weekend curfew was introduced in 1998, alongside a doubling of permitted ATMS, including changes to ATMs at weekends.
- 8.7 The CADP1 permission was granted in July 2016 by the SoS. This permitted comprehensive upgrades to the infrastructure and passenger facilities at the Airport and introduced the 6.5 million annual passenger cap and various other controls and mitigation measures. Of particular relevance to the current appeal, the CADP1 permission was granted subject to the following conditions:⁵⁵
- a. Condition 17 restricts the times that aircraft can take off and land at the Airport, limiting these hours to between 0630 and 2200 on Monday to Friday; between 0900 and 2200 on Bank Holidays and Public Holidays;⁵⁶ 0630 and 1230 on Saturdays; and 1230 and 2200 on Sundays.⁵⁷
 - b. Condition 23 restricts Actual Aircraft Movements at the Airport to a maximum of 111,000 per calendar year. It also imposes daily limits with a maximum of 100 per day on Saturdays; 200 per day on Sundays (but not exceeding 280 on any consecutive Saturday and Sunday); 592 per day on weekdays; and individual limits for specified Bank Holidays.
 - c. Condition 25 restricts Actual Aircraft Movements between 0630 and 0659 hours on Mondays to Saturdays to six (excluding Bank Holidays and Public Holidays when the Airport is closed for the use or operation of aircraft between these times). Condition 26 requires that the number of Actual Aircraft Movements in the period between 0630 hours and 0645 shall not exceed two on any of these days.

⁵⁴ As stated by Glyness Webb, local resident.

⁵⁵ CD7.8

⁵⁶ With the exception of Christmas Day, which is addressed in condition 27.

⁵⁷ Similar restrictions apply for aircraft maintenance and repair (condition 8) passenger terminal opening times (condition 42) and ground running, testing and maintenance (condition 50).

- d. Condition 43 restricts the passenger throughput of the Airport to a maximum of 6.5mppa.

- 8.8 In addition, a series of other conditions impose environmental controls and restrictions on the Airport, including the Aircraft Noise Categorisation Scheme (condition 18); the Noise Management and Mitigation Strategy (condition 31); a condition to fix the size of the 57dB $L_{Aeq,16h}$ contour (condition 33); as well as conditions relating to sustainability, biodiversity, air quality, lighting and surface access.
- 8.9 Due to the pause in the CADP1 construction programme in 2020 during the pandemic, it is now anticipated that the remaining CADP1 permission works (including the new terminal buildings) will be built out over a more prolonged period. The programme for the completion of the remaining CADP1 construction works depends upon the growth in passenger numbers, operational and service requirements and financial considerations.⁵⁸ The Proposed Amendments would enable the CADP1 permission construction works to be completed earlier than they would otherwise be delivered.⁵⁹

Proposed Amendments

- 8.10 The Proposed Amendments to the CADP1 permission would facilitate the following:
- a. An increase in the annual passenger cap to allow the Airport to handle up to 9mppa;
 - b. Changes to the Airport's opening hours at the weekend to allow the Airport to operate for an additional six hours on a Saturday afternoon (with an additional hour for up to twelve arrivals during the summer season); and
 - c. Changes to the limits on Airport's operations during weekdays (Mondays to Saturdays) to permit three additional flights in the first half hour of morning operations (nine instead of six between 0630 and 0659, of which four would be allowed, instead of two, between 0630 and 0645).
- 8.11 The proposals also include associated changes to aircraft maintenance and terminal opening hours to align with later opening on Saturday afternoons, and minor design changes to the CADP1 permission. There are no proposed changes to the permitted number of aircraft movements a year, the permitted maximum runway movements per hour, the number of aircraft stands or any other physical changes to airfield infrastructure.
- 8.12 It is significant that the additional operating hours in the mornings and on Saturday afternoons are to be limited by condition to 'new generation' aircraft

⁵⁸ CD1.10, page 9, para 3.4.13

⁵⁹ Ibid

only.⁶⁰ This means that the take up of these slots would inevitably be gradual, as acknowledged by LBN in cross-examination. Due to the length of time that it would take airlines to order and take delivery of these aircraft, it would not be possible for these slots to be fully utilised immediately. In addition, once airlines have re-fleeted, those new generation aircraft would be used throughout the week thereby delivering an improvement in overall noise effects.

Nature of the application

- 8.13 LBN appeared to suggest that it was not appropriate for LCY to seek to vary the conditions attaching to the CADP1 permission in circumstances where the SoS concluded that they were 'necessary' and 'served a planning purpose' when imposed in 2016. There are four points to make in response, as follows.
- 8.14 First, an application under s73 requires the decision maker to consider only the question of the conditions subject to which planning permission should be granted. In other words, the decision maker must recognise that planning permission has already been granted for the development permitted by the 'parent permission'. The grant of an application under s73, however, produces a new planning permission. As such, the application must be determined in accordance with the development plan and other material considerations at the time of the determination.⁶¹
- 8.15 Second, it is important to note that LCY's s73 application does not solely seek to amend condition 17 to allow Saturday afternoon operations. The application also seeks to vary other conditions, including the 6.5mppa passenger cap. Thus it is necessary to consider the 'need' for the Proposed Amendments, their socio-economic and others benefits, as well as their environmental effects.
- 8.16 Third, while there is no dispute that condition 17, which restricts operating hours, was deemed to meet the relevant planning tests in 2016, that does not mean that it cannot now be amended as a matter of principle. Indeed, the very purpose of a s73 application is to enable conditions that were considered necessary when imposed to be amended, whether those conditions were imposed by the SoS, an Inspector or a local planning authority. This is clearly recognised in the relevant case law.⁶² Such a power is not predicated on demonstrating that the conditions were not necessary

⁶⁰ New generation aircraft comprise aircraft such as the Embraer-E2 family or Airbus A220 series aircraft, which are cleaner, quieter and more fuel efficient than much of the existing fleet at the Airport.

⁶¹ *Pye v Secretary of State for the Environment, Transport and the Regions and North Cornwall DC* [1998] 3 P.L.R. 72, page 44: "An application made under section 73 is an application for planning permission (see section 73(1)). The local planning authority's duty in deciding planning applications is to have regard to both the development plan, which brings into play section 54A [now section 38(6) of the Planning and Compulsory Purchase Act], and to any other material considerations (s70(2))."

⁶² Ibid

when originally imposed. Whether a condition ought to be amended subsequently is a matter to be determined in accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004.

- 8.17 Fourth, the circumstances in which condition 17 was retained by the SoS in 2016 were significantly different to those that pertain now. The CADP1 proposals sought a change in activity at the Airport as well as significant changes to infrastructure. It was the first time that a passenger cap was introduced, as well as a peak hourly movement cap. Condition 17 therefore formed part of an overall package of mitigation measures that were put forward in order to meet the environmental effects of that particular proposal. In particular, at that time, the environmental impact assessment showed a 57dB noise contour of 9.1km.⁶³ The mitigation that was considered to be necessary in 2016 was predicated upon the environmental effects of *that* proposal, in the context of the particular socio-economic benefits that *that* development would deliver. The Proposed Amendments seek to change part of the mitigation currently in place, but in the context of a different set of environmental effects (and a lesser overall noise impact⁶⁴), an enhanced package of other mitigation measures, and additional socio-economic and consumer benefits. One cannot look at the change in Saturday operating hours in isolation, but must consider all of these elements in the round as part of the planning balance.

Development of and Rationale for the Proposed Amendments

- 8.18 While airport masterplans have no statutory status, in accordance with the APF,⁶⁵ LCY has produced a Masterplan.⁶⁶ The current Masterplan was published in 2020 following a 16-week public consultation. This replaced the previous masterplan that was published in 2006. The 2006 Masterplan indicated an intention on the part of LCY to reach 6mppa by 2025 and 8mppa by 2030, with an associated 171,000 ATMs. The 2020 Masterplan identified an intention to serve to 11mppa by the mid to late 2030s. Since the publication of the 2006 masterplan, the introduction of larger aircraft has allowed more passengers to be served with fewer ATMs. It is for this reason that there is no proposal to increase the current ATM cap in association with the increase to 9mppa.
- 8.19 As noted by the Masterplan, the CADP1 development represents a significant investment in the physical infrastructure at the Airport. It was driven by the need to address some of the key physical constraints on capacity at the Airport, including the existing taxiway, the number of aircraft stands and the size of the terminal building. In this regard, it represented the 'optimum' capacity for the number and type of passengers that it was seeking to serve at that time. One key aspect of this was the significant proportion of

⁶³ As reflected in condition 33 of CADP1 (CD2.7)

⁶⁴ The contour associated with the proposed amendments is less than the 2019 contour and 20% less than that currently permitted see CD1.15, page 42 and as above.

⁶⁵ CD3.5.01, page 69, paras 4.11 – 12 and Annex B

⁶⁶ CD5.1

business passengers,⁶⁷ which resulted in a diurnal profile that saw strong peaks in the morning and evening, but little activity in the interpeak. This profile of movements meant that growth was particularly constrained by the ability of the terminal to handle the busy hour peak. The air traffic demand forecasts that underpinned the CADP1 application ran up to 2023 and 2025, but not beyond.

- 8.20 Much has changed since 2016 when the CADP1 permission was granted. The way in which airlines operate has changed, in part in response to the challenging economic circumstances that have prevailed during and since the COVID-19 pandemic. The demand for leisure travel is growing, and the airlines are seeking to serve a greater proportion of leisure passengers than has historically been the case. Indeed, the importance of meeting consumer needs is recognised in the most recent statements of Government policy.⁶⁸ It is necessary for LCY to respond to the changes in underlying demand and the business operations of the airlines.
- 8.21 It is in this context that LCY Proposed Amendments to the conditions attaching to CADP1, in respect of which LCY undertook public consultation between July and September 2022. It should be noted that there is no proposal to increase the overall number of ATMs, nor is there any proposal to change the current restriction on Sunday operations. Despite support for the proposals from airlines, passengers and businesses, concerns were expressed by residents about the impact of increased operating hours. It was as a result of this feedback that LCY reduced the proposed additional Saturday opening times from 2200 to 1830.
- 8.22 It has been suggested by LBN that LCY should have abandoned the proposal to extend Saturday operating hours altogether, on the basis that (i) the afternoon is arguably more sensitive than Saturday evenings; and (ii) the same concerns of residents applied in respect of both parts of the day. There are two points to make in response to this.
- 8.23 First, Saturday afternoons are particularly important for leisure travel. By extending the operating hours on Saturdays, it allows airlines to carry out more aircraft rotations, as well as allowing a wider network of destinations to be served. At present, the restrictions on operating hours mean that the number of 'out and back' trips on a Saturday morning are limited, with many aircraft unable to return to the Airport before the 1230 curfew. For the same reason, the restrictions also mean that popular leisure destinations that are further afield cannot be served, as the aircraft and crew could not return in time for the start of the curfew. The current restrictions mean that aircraft cannot be used efficiently. Indeed, airlines have to move their aircraft elsewhere in order to operate them over the weekend. These flights, although not technically 'positioning flights' are ones for which there is no commercial demand.

⁶⁷ At that time the Airport served over 50% business passengers.

⁶⁸ CD 3.5.06 and CD3.7.03

- 8.24 The Proposed Amendments therefore strike a fair balance between the views of local residents and the delivery of significant economic, consumer and efficiency benefits that would be unlocked by the increased flexibility. They allow the existing and consented infrastructure to be used more efficiently across the week as a whole by creating the conditions whereby airlines are incentivised to grow and use the existing capacity fully to meet a balanced mix of business and leisure demand on weekdays. This is achieved in part through utilising the inter-peak period that is not typically required for business travel to meet underlying leisure demand, and increasing capacity to meet local leisure needs at weekend. This responds directly to the Government's policy of 'making best use'. The restriction of the new slots to new generation aircraft provides a powerful incentive for airlines to re-fleet earlier than they otherwise would, thereby delivering real noise benefits throughout the week.
- 8.25 If the increased operations on Saturday afternoons were not included within the Proposed Amendments, the ability to meet demand for leisure travel and increase the efficiency in the use of aircraft would remain significantly curtailed and growth in passenger numbers would be significantly slower. Increasing the passenger cap alone (or in conjunction with additional early morning flights), would not address the current inefficiency in terms of aircraft utilisation.
- 8.26 Second, there is a recognised distinction between the sensitivity of afternoons as opposed to evenings (on all days of the week) in terms of noise legislation, policy and guidance. The European metric of 'Lden', which considers an average annual day of aircraft traffic over a 24-hour period provides a specific penalty weighting of 5dB for noise between 1900 to 2300 to recognise its greater sensitivity, but no such penalty for the afternoon. This is also recognised in the NPPG for Noise.⁶⁹
- 8.27 Importantly, the Proposed Amendments retain an 18/17-hour closure from 1830/1930 on Saturdays until 1230 on Sundays;⁷⁰ this would remain the longest curfew at any UK airport. The number and duration of flights on Saturdays would continue to be significantly less than the permitted flights on weekdays.⁷¹

Scope of the dispute

- 8.28 It is notable quite how narrow the scope of the dispute had become by the close of the evidence. In terms of the outstanding RfR, it is now apparent that the objection relating to the additional early morning flights is no longer pursued by either LBN or HACAN East. LBN accepted that the early morning flights do not give rise to a significant effect in terms of noise and HACAN

⁶⁹ CD3.7.07 Para 010

⁷⁰ There is an additional hour of operations in the 'summer season' (defined as British Summer Time), during which, as part of the Proposed amendments, it is proposed that the Airport will be allowed up to 12 additional arrivals between 1830 and 1930 on Saturdays.

⁷¹ 230 compared with 592 for a weekday.

East did not give evidence specifically on the issue of additional early morning flights. In practical terms, this means that the only remaining objection to the proposal that was identified in the RfR is the introduction of flights on Saturday afternoons and the associated impact on amenity arising from air noise.

- 8.29 There is, therefore, very much that is not in dispute. In particular:
- a. There is no objection to the proposed amendment of the passenger cap to 9mppa;
 - b. There is no dispute that the surface transport effects of the Proposed Amendments are acceptable, and that the sustainable transport mode shift stimulated by the Proposed Amendments would be a benefit over the CADP1 permission;
 - c. There is no dispute that the air quality effects of the Proposed Amendments are acceptable and would not be materially greater than those associated with the CADP1 permission;
 - d. There is no dispute that carbon emissions from non-aviation sources are not significant in the context of the CADP1 permission. Furthermore, the carbon reductions set out in LCY's revised Energy Strategy represent a benefit over the CADP1 permission, which weighs positively in favour of the Proposed Amendments;
 - e. It is also agreed with LBN that the carbon emissions from aviation sources are consistent with the Government's Jet Zero Strategy; that they would not materially impact the ability of the Government to meet its climate change targets and do not provide a reason for refusing the Proposed Amendments;
 - f. It is agreed with LBN that the health effects of the Proposed Amendments do not give rise to a reason for refusal. There is also general agreement with the conclusions reached in the ES regarding the population health effects of the proposals.
- 8.30 It is a remarkable achievement that LCY has mitigated the effects of its proposed expansion so well that none of these other issues, which so often arise on airport expansion projects, is in issue with the local planning authority and that only one, very narrow, noise issue remains.
- 8.31 As a result of this, there are very many development plan policies with which the LBN agree the Proposed Amendments do comply. These include parts A and F of T8 of the LP; INF1 (strategic transport), SC5 (air quality), SC2 (energy and zero carbon), J1 (business and jobs growth) and J3 (skills and access to employment) of the NLP. This is important in the context, later, of whether the Proposed Amendments comply with the Development Plan as a whole.

Air Traffic Forecasting

Introduction

- 8.32 The primary role of air traffic forecasting in the context of the appeal is to establish the demand, and thereby 'need', for growth in capacity and

extended operational flexibility at the Airport, and to produce the inputs for the environmental impact assessment of the development. The air traffic forecasts also enable an understanding of how the Proposed Amendments would allow growth in the passenger throughput at the Airport and facilitate socio-economic and other benefits. The forecasting evidence also demonstrates the relationship between the Proposed Amendments and the rate of re-fleeting at the Airport.

Definition of 'need'

- 8.33 While not an issue raised by LBN in its Statement of Case or its written evidence, during the course of the inquiry it became apparent that a key matter in dispute was the meaning of the term 'need' in the context of this appeal, and the extent to which it is necessary for LCY to demonstrate a particular need for the Proposed Amendments. In particular, the cross-examination of all three of LCY's witnesses advanced the following lines of argument: (i) that the 'need' advanced in LCY's Need Case is merely a business need on behalf of airlines; (ii) that there is no demonstrable need for the amendments in circumstances where there is no evidence that either the Airport or the airlines would be 'unviable' without the amendments; and (iii) that there is no evidence before the Inquiry of a particular need from local people for Saturday afternoon flying. There are four points to make in response, as follows.
- 8.34 First, as a matter of principle, it is not necessary for airports to demonstrate a particular 'need' for their expansion proposals. National aviation policy provides very strong in principle support for meeting demand for air passenger travel where it exists. It is for this reason that LCY's Need Case, in common with the need cases produced in respect of every other recent airport expansion proposal, has focussed on demonstrating that demand exists in the catchment for the Airport and how its proposals would meet such demand.
- 8.35 Second, the adopted approach is supported by the approach taken in other recent airport appeal decisions. In particular, the issue of whether a specific need must be demonstrated for airport development proposals was directly considered in the Stansted appeal decision in May 2021 where, in the context of MBU policy, the Inspector Panel found no policy requirement to demonstrate need for their proposed development or for associated additional flights and passenger movements.⁷² In a similar vein, the SoS in the Manston appeal decision found that MBU policy "*does not limit the number of MBU airport developments that might be granted and does not include a cap on any associated increase in ATMs as a result of intensifying use at MBU developments.*"⁷³ Finally, the panel of Inspectors in the Bristol appeal decision found that there was clear and compelling need for the development

⁷² CD8.02, page 4, para 17

⁷³ CD8.04, page 12, para 47

as evidenced by the UK Aviation Forecasts and reflected in the policy support for MBU, and that the forecasting was sufficiently robust.⁷⁴

- 8.36 These recent appeals also demonstrate that there is no policy support for suggesting that LCY should not be allowed to expand on the basis that there is existing capacity at other London airports.
- 8.37 Third, the interpretation of need as being linked to the viability of airlines or the Airport as a whole represents a significant departure from the approach in the Officer's Report (OR).⁷⁵ The analysis in the OR specifically considered the Need Case submitted on behalf of LCY and concluded that it was not disagreed with. The report considered the demand forecasts produced by LCY and concluded that, while there remained elements of dispute between LBN and LCY, LBN was satisfied that growth was expected and that the proposals could meet that growth. It was on this basis that the OR concluded that *"it is acknowledged that the expansion of flights into Saturday afternoon would enable the airport to make more efficient use of existing infrastructure and runways."*⁷⁶
- 8.38 This approach in the OR was appropriately informed by the Government's policy of 'making best use' and LCY's aviation demand forecasts. The OR made no reference to the viability of the Airport, or of individual airlines. It was plainly right not to do so; it is no part of Government policy that airports can only expand if such expansion is necessary to prevent their business, or that of airlines, becoming unviable. Indeed, Government policy supports the creation of a competitive aviation industry and the delivery of consumer benefits, which relies upon the aviation industry being economically strong.⁷⁷
- 8.39 Fourth, with regards to the argument that there is no demonstrable need from local people to fly on Saturday afternoons that could not be met during the week, this fundamentally misunderstands the nature of LCY's demand forecasts. The demand forecasts are based on the national forecast growth in aviation demand, of which the Airport would meet a proportion. The forecasts demonstrate a demand for leisure travel throughout the week, including at weekends. The starting point in the context of MBU is that this demand should be met. In order to meet the demand for leisure travel, conditions must be created at the Airport where the airlines can viably operate such services. This includes permitting operations at times that the demand for business travel is less, as well as reducing the current inefficiency in aircraft utilisation.
- 8.40 The question is not, therefore, whether an individual passenger, who might prefer to fly on a Saturday afternoon, could instead travel on a weekday. Such an approach would be to deny consumers choice of where and when they want to fly from. This is directly contrary to Government policy in FTTF,

⁷⁴ CD8.01, page 28, para 142

⁷⁵ CD4.3.1

⁷⁶ Ibid, page 45, para 87

⁷⁷ CD3.5.06, page 5

which makes clear that “*Consumers are at the heart of UK aviation, and ensuring that the sector continues to deliver effectively for all consumers will be essential for its future success.*”⁷⁸

- 8.41 It is notable that LBN’s case that there is no evidence of demand for Saturday afternoon flying is inconsistent with its position in respect of Saturday afternoon noise effects, which is predicated on an assumption that there would be flights during this period. There is no obvious reason why airlines would put on flights during a period where there is no demand. In such circumstances, the noise effects about which LBN are concerned with simply not arise. In short, meeting the clear demand to fly from the Airport, in accordance with MBU, is ‘need’ for the purposes of this appeal.

Scope of the dispute at the close of evidence

- 8.42 The scope of the dispute in respect of forecasting is extremely narrow. The following significant points are now agreed:
- a. There is no dispute that the methodology used for the forecasts is the most appropriate available.⁷⁹
 - b. It is no party’s case that the Airport will not reach 9mppa.
 - c. There are no alternative forecasts demonstrating when this level of demand would occur, if not in accordance with LCY’s forecasts.
 - d. There is no dispute that it is appropriate for the environmental impact assessment to assess the environmental effects of the Airport with a 9mppa throughput, as that is the passenger capacity limit that this planning permission has applied for. Nor is there any dispute that this is the approach that LCY has taken in its ES.
 - e. There is no dispute as to the fleet mix at 9mppa, which is an output of the air traffic forecasts. Importantly, there is no dispute as to the rate of re-fleeting that has been assumed as a result of the additional slots.
 - f. There is no dispute that the rate of re-fleeting to new generation aircraft would inevitably constrain the rate of take-up of the additional slots. As such, the rate of take-up, and therefore any new noise effects on Saturday afternoons, would be gradual; and,
 - g. There is no dispute that it is no part of Government policy to direct airport capacity to one area, or away from another, in order to prevent or distort competition.

- 8.43 In light of the considerable scope of agreement, the outstanding matters in dispute are relatively minor in nature. The issues primarily centre around the extent to which the forecasts are optimistic, such that growth may materialise more slowly than anticipated, and the extent to which business travel may not grow as forecast. These issues are discussed in detail below.

Policy Context

- 8.44 The Government has long recognised the important role of aviation in economic growth. The APF, states as follows: “*The Government’s primary*

⁷⁸ CD3.5.06, page 62

⁷⁹ CD11.2, Table 8.1

objective is to achieve long-term economic growth. The aviation sector is a major contributor to the economy and we support its growth within a framework which maintains a balance between the benefits of aviation and its costs, particularly its contribution to climate change and noise.”⁸⁰

- 8.45 It highlights the role of air travel in maintaining international connectivity, stating that: *“One of our main objectives is to ensure that the UK’s air links continue to make it one of the best connected countries in the world.”⁸¹*
- 8.46 In recognition of the important role played by aviation infrastructure in contributing towards economic growth through delivering connectivity, the APF identifies that a key priority is to work with the aviation industry and other stakeholders to make better use of existing runway capacity at all UK airports.⁸²
- 8.47 It was in light of the economic benefits of aviation that the Government endorsed the principle of airports ‘making best use’ of their existing runways. The ANPS⁸³ made clear that the Government was supportive of airports beyond Heathrow making best use of their existing runways. MBU,⁸⁴ which was published at the same time as the ANPS, is clear in confirming the Government’s in principle support for airports beyond Heathrow making best use of their existing runways, taking into account relevant economic and environmental considerations.
- 8.48 Between 2017 and 2019, the Government carried out consultation on its future aviation policy. This included the publication of a Green Paper titled ‘Aviation Strategy 2050: The Future of UK Aviation’ (Aviation 2050).⁸⁵ Aviation 2050 reiterated the Government’s position that aviation is important for the government’s goal of building a global and connected Britain. It recognises the many benefits of air travel, including facilitating individuals to maintain social and family ties and go on holiday, as well as bringing trade and investment to the UK. It made clear that aviation is vital to how the UK is connected to the global economy. It also recognises the important role of airports at a local level, as vital hubs for local economies, providing connectivity, employment and a hub for local transport schemes.
- 8.49 The most recent statement of Government aviation policy is FTTF⁸⁶ which provides the strategic framework for aviation over the next ten years. FTTF recognises the difficulties faced by UK aviation since the COVID-19 pandemic, and identifies the objective of securing the following:

“A future where aviation remains of huge strategic importance to the country post-Brexit, allowing tourism, business and trade to thrive. A future where UK

⁸⁰ CD3.5.01, page 9, para 5

⁸¹ Ibid, page 9, para 9

⁸² Ibid, page 10, para 10

⁸³ CD3.5.02

⁸⁴ CD3.5.03

⁸⁵ CD3.5.04

⁸⁶ CD3.5.06

*aviation becomes synonymous with sustainability, and part of the solution to climate change. And a future where the UK consolidates its position as one of the world's most important aviation hubs."*⁸⁷

- 8.50 FTTF emphasises the Government's intention to promote and improve global connectivity to facilitate sustainable growth in order to deliver the ambition of incentivising trade and investment opportunities. FTTF re-confirms the Government's in principle support for airport expansion, as follows:

*"Airport expansion has a key role to play in realising benefits for the UK through boosting our global connectivity and levelling up. We continue to be supportive of airport growth where it is justified, and our existing policy frameworks for airport planning provide a robust and balanced framework for airports to grow sustainably within our strict environmental criteria. They continue to have full effect, as a material consideration in decision-taking on applications for planning permission. The Government is clear that the expansion of any airport must meet its climate change obligations to be able to proceed."*⁸⁸

- 8.51 It is important to note that the support for aviation growth is not just expressed in terms of inbound tourism but is also based upon support for making the rest of the world more accessible for people living in the UK, recognising the importance of human connection and the role that global connectivity plays in facilitating this.⁸⁹ In this way, the needs of consumers are placed at the heart of UK aviation. FTTF also reiterates the crucial role that aviation plays in local communities, through providing jobs, supporting economic activity, and through the wider positive impacts on the economy.⁹⁰ This directly supports the Government's 'levelling up' agenda.
- 8.52 All this is hardly surprising in a context where the UK only has one land-link with the rest of the world (i.e. the Channel Tunnel). Aviation (and indeed shipping) are absolutely vital for the nation's connectivity and, indeed, its place in the wider world.
- 8.53 What is also of importance when considering the Proposed Amendments are the matters that are not part of national policy:
- a. There is no policy that airports should not be allowed to compete to provide air traffic services, or that demand should be distributed to certain airports and not others;⁹¹
 - b. In particular, there is no policy that growth should be limited at certain airports in order to decrease carbon emissions;⁹² and,

⁸⁷ CD3.5.06, page 3

⁸⁸ Ibid, page 7

⁸⁹ Ibid, page 19

⁹⁰ Ibid, page 42

⁹¹ This is subject to the exception that Government policy in the ANPS specifies its preference for a new runway in the South-East to be delivered at Heathrow. The third runway at Heathrow policy in the ANPS is not directly applicable to this appeal.

⁹² As suggested by both LBN and HACAN East.

- c. There is no policy that outbound tourism should be limited so as to retain spending within the UK.

8.54 As such, there is no in principle policy that demand should not be met, and that it should not be met where it arises. In this regard, national aviation policy is aligned with national economic policy.

Wider Context

Drivers of air traffic demand

8.55 Air traffic forecasting is concerned with the assessment of future demand for air travel, including travel for both leisure and business purposes. The fundamental drivers of demand are population growth, economic growth, disposable income and the cost of travel, amongst other factors. The long-term relationship between these factors is well established.

Particular context at London City Airport

8.56 Historically, the Airport has served a high proportion of business passengers. Prior to the COVID-19 pandemic, 46% of passenger demand was for business travel. Across the UK, business travel has recovered more slowly than leisure travel.⁹³ The demand for leisure travel is growing at a faster rate than business travel, but the operating restrictions currently in place at the Airport mean that it has been unable to serve the leisure market to the same extent as other airports.

8.57 The Airport is situated within an area that has experienced, and would continue to experience, rapid growth in population.⁹⁴ The OAPF identifies the OA within which the Airport sits as capable of accommodating some 30,000 new homes and 41,500 new jobs across the plan period. This area will therefore experience faster than average population growth, generating demand for leisure travel within the Airport's catchment area.⁹⁵ This is reflected in a slight uplift applied to the growth rates for core districts in the east of London within LCY's forecasting methodology. National aviation policy is clear in providing in principle support for meeting the needs of consumers.

⁹³ CAA data showed that in the first six months of 2023, leisure passenger numbers across the London airports had recovered to 99% of 2019 levels, whereas business passenger recovery on the same basis was 72%.

⁹⁴ CD3.3.1, page 164, Table 4.1

⁹⁵ In the DC Scenario the proportion of business passengers rises faster than for leisure passengers because of the number of new routes that are available to them. It should be recognised that the overall number of leisure passengers in the 9mppa DC Scenario is still substantially higher than the number of leisure passengers in the 6.5mppa DM Scenario, reflecting the Airport's ability to better serve its growing leisure market.

Air Traffic Forecasts

Methodology

- 8.58 The forecasts have been prepared using a semi-bottom-up approach, based on a projection of the underlying demand for air travel within the Airport's catchment area, taking into account expected economic growth and future changes in the cost of air travel, such as carbon costs. As noted above, it is agreed with LBN that this is the most appropriate methodology available.
- 8.59 The approach to forecasting has two stages. The first stage is to forecast growth of the market as a whole and to do this an econometric model based on the Monte Carlo approach was used, which provides a structural way of modelling uncertainty. This approach randomly combines different permutations of economic and cost variables, which produces a fan graph of potential outcomes. The carbon values used within the model are consistent with those used for the Jet Zero forecast modelling, which trend from the current UK ETS (or CORSIA) prices to the values in the most recent appraisal guidance produced by the Department for Business, Energy and Industrial Strategy (BEIS).⁹⁶ The DfT growth elasticities have been used for each market segment to derive the growth rates. These elasticities reflect the long-term relationship between economic growth and passenger demand and have been calibrated over a long time frame, which includes periods of recession. For the core case, the 50th percentile growth rate produced by the model has been used. The growth rates used for each market segment are set out in the Need Case.⁹⁷
- 8.60 The second stage is to assess the Airport's share of the market, having regard to the characteristics of the Airport, its ability to capture a share of the market based on past performance and informed by changes such as improvements in surface access and growth in local population, taking into account competition and available capacity at other airports.

Managing Uncertainty

- 8.61 Inherent in the exercise of forecasting, there remains a degree of uncertainty surrounding the model output. However, the adopted approach is specifically designed to minimise and address uncertainty in two key respects:
- 8.62 First, the Monte Carlo approach provides a structural means of addressing uncertainty, as it takes account of a whole combination of possible variables that could influence growth, including those which could result in slower growth.
- 8.63 Second, LCY have produced faster and slower growth cases, in addition to the core case. The slower growth case reflects slower recovery in the market, slower economic growth and higher cost factors. It is based on the 20th percentile growth rate from the fan graph produced by the Monte Carlo

⁹⁶ Now called the Department for Energy Security and Net Zero (DESNZ).

⁹⁷ CD1.60

approach, as opposed to the 50th percentile used for the Core Case. The slower growth case therefore takes account of the very factors which LBN says represent 'downside risks' that ought to be taken into account. Indeed, as accepted by LBN, the slower growth scenario inherently has less downside risk than the core case. As explained below, LBN confirmed that they have not considered the slower growth scenario.

- 8.64 It is also important to put any such uncertainty in context: there is no uncertainty as to the maximum throughput of the Airport if the application is granted. It seeks an increased passenger cap of 9mppa. Nor is there any dispute that this is the level of throughput that is appropriate to assess through the ES. Moreover, as demonstrated by the assessment of the slower growth scenario, if the Airport were to reach 9mppa in 2033 rather than 2031 (as forecast in the core case), this would not have a material impact on the environmental effects; it would still be an airport operating at 9mppa, albeit reached slightly later.

Forecast Scenarios

- 8.65 The core DC Scenario indicates that the Airport would reach 9mppa and 111,000 ATMs in 2031. This reflects a lower growth rate than seen at LCY between 2014 and 2019 and between 2009 and 2019.
- 8.66 In order to reflect the uncertainties inherent in projecting future demand, two sensitivity cases have been prepared to reflect a reasonable range of time over which the Airport would reach 9mppa if the proposals are granted planning permission. The 'faster growth' case indicates that the Airport could reach 9mppa in 2029. The 'slower growth' case, which reflects slower economic growth and the possibility of higher carbon costs, projects the Airport to reach 9mppa in 2033. They demonstrate that there is no 'cliff edge' in environmental effects; in other words, those effects are not materially different if any uncertainty in growth means it is faster or slower than the core DC Scenario.

Nature of air traffic forecasts

- 8.67 It is important to understand that the air traffic forecasts are long-term in nature. The forecast reflects a long-term trend that would not be reflective of how demand would actually grow year on year. It is inevitable that there would be variability in the rate of growth, such that growth would not represent a straight line but would be 'lumpy'. This is more exaggerated at a small airport than a larger one. For example, there may be events that result in a step change in demand, such as the introduction of new based aircraft. If one were to plot the rate of growth over this period, the growth would appear to be slower before the step change and faster after it, rather than a consistent rate as indicated by the forecasts.
- 8.68 The consequence of this is that one cannot take a single year from within the forecast period and 'spot predict' the demand at that year. It is for this reason that the fact that growth has not materialised in accordance with the forecast as at 2023 says nothing about the accuracy of the forecast as at

2031. It is simply wrong to suggest therefore that one is starting from the wrong point if slower growth is experienced in the early forecast years.

'Split' Decision

- 8.69 Without the uplift in the passenger cap and the change to opening hours sought by the proposals, growth would be materially slower as the Airport would not be able to meet the increasing local requirement for outbound leisure travel as well as its traditional business travel market. Overall, the Need Case explains that the effect of the current constraint in 'operating hours' would mean that the Airport would not be expected to reach its consented 6.5mppa level until 2029 with slower growth thereafter, even if the 9mppa passenger cap was increased.⁹⁸ LCY also considers that growth to 8.8mppa would be even slower than was anticipated in the Need Case.
- 8.70 During the Inquiry, the Inspector's queried whether there could be a grant of planning permission amending the other conditions but retaining the existing limits on weekend operations in (now) condition 17. Clearly, s73 does allow some conditions to be amended and not others, that is not in dispute; the issue is whether by 'splitting' the decision, the different benefits and environmental impacts of the development would have been properly assessed.
- 8.71 LCY's position is that the extension of the hours on Saturday afternoon is fundamental to meeting the need, driving the socio-economic benefits of the proposals and also, through its agreed acceleration of re-fleeting, the overall noise benefits. As the effects, both positive and negative, of granting a s73 permission without amending condition 17 to extend the operating hours on Saturday has not been assessed, LCY is concerned that any such decision may be susceptible to legal challenge.

Relationship with re-fleeting

- 8.72 The proposals are specifically designed to create the conditions in which there is an incentive for airlines to re-fleet at a faster rate than they otherwise would have. Central to this is proposed condition 89, which would limit the additional three early morning slots and the Saturday afternoon slots to 'new generation' aircraft only. 'New generation' aircraft comprise aircraft such as the Embraer-E2 family or Airbus A220 series aircraft, which have greater seating capacity and are cleaner, quieter and more fuel efficient than much of the existing fleet at the Airport. The noise characteristics of such 'new generation' aircraft are defined in condition 89.
- 8.73 There is no dispute that the amendments would have a positive effect on the rate of re-fleeting. Not only would airlines have to re-fleet in order to take advantage of the additional slots, but they would also be able to use those aircraft more efficiently than at present, creating an additional economic incentive to re-fleet. The letter from the CEO of British Airways CityFlyer

⁹⁸ In the DM Scenario. This is explained in detail in the Need Case at CD1.60

(BACF) is an important endorsement on this particular issue.⁹⁹ Once purchased, the new generation aircraft would be used throughout the week, thereby delivering a benefit in terms of noise on other days of the week; that last point is important.

Outstanding issues in dispute

- 8.74 Three outstanding points of dispute with LBN relate to the extent to which downside risks mean that LCY's forecasts are optimistic; the ability for the forecast growth to be handled at other airports; and the extent to which there would be factors other than the proposals that would influence the rate of re-fleeting by airlines.
- 8.75 However, as set out above, the significance of these points for the determination of the appeal is greatly diminished. In particular, whatever LBN's concerns about downside risks are, it is agreed that the Airport will reach 9mppa. Nor is there now any dispute that it is appropriate to assess the Airport at 9mppa for the purposes of the ES. The forecast rate of re-fleeting is also now agreed to be reasonable. As such, to a large degree, little turns on the outstanding points of dispute between LCY and LBN.
- 8.76 Notwithstanding that HACAN East has not provided expert forecasting evidence, they argued that there is uncertainty regarding the rate at which business travel would grow. This is based upon the use of the DfT elasticity, which it is asserted that it was based on a different era of Britain's economic development. These issues are dealt with in turn.

Downside Risks

- 8.77 LCY's air traffic forecasts were presented in the Need Case submitted with the s73 application in December 2022. LBN instructed an expert to review the Need Case, which led to the production of a review of the Need Case initially published in April 2023 and subsequently updated in June 2023.¹⁰⁰ At that stage, LBN's assessment was that the Airport would reach 9mppa but it would do so later than 2031. The report identified that the reason for this was that the DfT's March 2022 forecasts were optimistic as the GDP assumptions pre-date the Russian invasion of Ukraine. At that stage, it was recognised that growth at the Airport had stalled, but did not consider it to be material to the forecasts at 2031. The OR summarised this analysis, concluding that while there was some dispute as to how fast the Airport would grow, it was agreed that growth was expected.¹⁰¹
- 8.78 By September 2023, based on short term performance of the Airport, LBN no longer considered that the Airport would reach 9mppa, albeit it was made clear that it is not that 9mppa would not be reached. LBN identifies a range of factors which mean that the Airport may not reach 9mppa.¹⁰² Before

⁹⁹ Louise Congdon, PoE, Appendix 1.

¹⁰⁰ CD4.5.09a and 4.5.09b

¹⁰¹ CD 4.3.1, page 45, para 87

¹⁰² Chris Smith, PoE

turning to consider these particular factors, it is necessary to note the following points.

- 8.79 First, LBN has provided no coherent explanation as to why the short-term performance of the Airport was not considered material to the forecasts to 2031 at the time of his June 2023 report, but were relevant some four months later. In any event, LBN agreed during cross-examination that it was not appropriate to base long-term forecasts on very short-term trends.
- 8.80 Second, the very purpose of producing a slower growth scenario is to identify what the effect would be if more downside risks were to materialise, leading to slower growth. LBN have not considered or reviewed the slower growth scenario and therefore are unable to offer a view on whether or not it remained optimistic.
- 8.81 Third, LBN have not produced any alternative forecasts that could be taken into account for the purposes of determining the appeal. Indeed, it is common ground that it is appropriate for the purposes of the ES to assess the Airport at a throughput of 9mppa. In this regard, the downside risks have no consequential impact on the appropriateness of the ES or the SoS ability to rely upon it.
- 8.82 The downside risks identified by LBN include the rise in video-conferencing, the extent of working from home, the impact of Brexit and shortage of aircraft affecting BACF. With the exception of the last of these, none of the factors identified are specific to the Airport. LBN accepted that there was no specific evidence to support these factors, but argued that they were based on common sense and reading the newspaper. In light of LBNs concession that such factors are not an appropriate basis on which to produce long-term forecasts, these points simply do not go anywhere.
- 8.83 In contrast, LCY give the following specific reasons for the slower rate of recovery at the Airport:
- a. The recovery of business travel, which previously made up a significant proportion of the passenger demand at the Airport, has been slower to recover than that of leisure travel. In particular, there are certain key business travel routes that have not yet been restarted following the pandemic. This is a temporary situation that relates to issues with delivery and serviceability of certain aircraft engines (as explained further below). On routes that have been reinstated, however, the recovery shows that demand to use the Airport remains strong and in some instances, passenger levels have now exceeded those of 2019.
 - b. While the leisure market has recovered faster than business travel at the UK level, the existing restrictions on operations at the Airport mean that it has been unable to serve the leisure market to the same extent as other airports. The amendments, and in particular the longer operating hours on Saturday afternoons, would make a significant contribution to addressing this issue.
 - c. Between 2013 and 2019, rapid growth at the Airport was driven in part by the fact that Heathrow was approaching its annual runway

movement limit. There is no dispute that during the pandemic airlines consolidated flights at Heathrow in order to protect their extremely valuable slots at that airport, which resulted in a displacement of routes away from airports such as London City. The rate at which Heathrow is recovering means that long haul flights would soon start replacing short haul routes, displacing these routes back to other airports such as London City. LBN agreed that there was no reason to believe that the displacement of flights to Heathrow would be permanent; and,

- d. Finally, as acknowledged by LBN, there has been particular issues with delivery and serviceability relating to engines that power Embraer-E2 and A220 aircraft. These are key aircraft that are able to operate at the Airport. This has led to some airlines decreasing the frequency of particular services or temporarily ceasing some routes altogether.

- 8.84 These reasons explain why recovery at the Airport has been slower than at other UK airports. They do not, however, undermine the long-term forecasts which look to 2031 in the core case or 2033 on the slower scenario.
- 8.85 In addition to highlighting the short-term performance of the Airport, LBN criticised a number of the macro-economic inputs used in the modelling. These include a range of costs including fuel costs, carbon costs, air passenger duty and other airline costs.¹⁰³ LBN considered that while these inputs were perfectly proper at the time that the forecasts were prepared, it is now considered that the passage of time had proved these inputs to be too optimistic.
- 8.86 The anticipated higher cost of sustainable aviation fuels (SAFs) has been taken into account in the forecasts by the use of carbon costs from the Jet Zero Strategy, which have been set at a level considered to be high enough to incentivise the use of SAFs or zero emissions aircraft in line with the Jet Zero assumptions for take-up. With regards to carbon costs, LBN confirmed that LCY had used the correct carbon costs in the modelling, but consider that lower CORSIA costs at other airports may lead to slower growth in long haul services, resulting in a fall in demand at the Airport. With regards to air passenger duty, LBN argued that a new administration would be likely to increase air passenger duty, thereby affecting demand for air travel.
- 8.87 Once again, however, LBN accepted that there was no evidence to support any of the factors he relied upon to criticise the modelling inputs. There is a risk associated with overreacting to every economic downturn. Due to the long-term nature of the forecasts, it is not appropriate to adjust them for every global event. There is nothing in the underlying economic projections that indicated that an adjustment was required for the 2031 or 2033 forecasts.

¹⁰³ Chris Smith, PoE, para 4.11 – 4.27

Accommodating growth at other airports

- 8.88 LBN argued that the increase in demand of 2.5mppa could be accommodated at other London airports and it was because of this factor that LBN gave reduced weight to the demand for growth in the determination of the application and for the Inquiry.
- 8.89 However, there is no policy to restrict growth at an airport if another airport has capacity to meet the demand. Moreover, it is well-established in national aviation policy and in previous appeal decisions that where there is demand for air travel, that amounts to 'need' for these purposes. These points were accepted by LBN. As outlined above, there is no requirement to demonstrate a specific 'need' and still less, any requirement to demonstrate that the airlines or Airport would be 'unviable' in the absence of the expansion.
- 8.90 There is therefore no dispute in substance that LBN's approach is not reflective of, and finds no support in, Government policy. There is therefore no policy basis on which to reduce the weight to be given to the need identified through the air traffic forecasts, as a result of capacity at other airports. Indeed, to do so is tantamount to reducing the weight to be given to up-to-date national aviation policy itself, without any good reason to do so.

Factors affecting re-fleeting

- 8.91 By the close of the evidence, there was no dispute that the proposals would have a positive impact on the rate of re-fleeting and that the rate of re-fleeting forecast by LCY is reasonable. LBN's argument that there are other factors that would also drive re-fleeting is now largely academic, as there is no dispute that the forecasts can be relied upon for the determination of the appeal.

Business Travel

- 8.92 Air traffic elasticities specified in the DfT's UK Aviation Forecasts 2017 were used in the production of the forecasts. These elasticities encapsulate in broad terms the relationship between economic growth and price, and the propensity of to fly. They reflect a wide range of factors that may impact demand, such as the maturity of markets, attitudinal change, changes in personal and business habits and the rise of new technologies. HACAN East seeks to cast doubt on the appropriateness of the use of the business passenger elasticities, on the basis that much has happened since the production of these elasticities which has rendered them out of date.
- 8.93 There are four main points to make in respect of the use of the DfT elasticities:
- a. The elasticities have been recently re-calibrated by DfT and were published in 2022;¹⁰⁴

¹⁰⁴ CD3.5.13

- b. They are based on long-term data from 1986 to 2017 for international markets and 1991 to 2018 for domestic markets,¹⁰⁵ they have been peer-reviewed, and they remain the most comprehensive piece of analysis available;
- c. They provide the basis on which DfT itself produces forecasts upon which policy decisions are made; and
- d. They are the only elasticities before the Inquiry. No other party has suggested any alternative elasticities which should be used for the purpose of forecasting.

8.94 The use of the elasticities in these circumstances is entirely appropriate and reasonable.

8.95 HACAN East sought to argue that there has been a structural change that is not reflected in the elasticities, making them inappropriate for use. However, the period over which the elasticities are derived include periods of discontinuity including disruption to travel caused by the New York terrorist attack (9/11) and the 2008 financial crisis. In other words, the elasticities already reflect periods of profound economic change and have been found by DfT to remain robust.

Conclusion on Forecasting

8.96 The forecasting methodology used has been designed to address uncertainty and produces forecasts that are robust. The scope of disagreement largely centres around the likelihood that growth would be slower than anticipated. This very issue has been addressed by the production of a slower growth scenario; although this has not been reviewed by LBN. While criticisms of the inputs to the modelling and the use of DfT elasticities have been advanced, no party has proposed any alternatives. LBN accepts that very many of their downside risks are not supported by any evidence whatsoever. Indeed, there is no dispute that it is appropriate to assess the characteristics of the Airport at 9mppa for the purposes of the ES, and that the rate of re-fleeting assumed is reasonable.

8.97 For the reasons explained above, LCY's forecast of business passenger growth is robust and entirely appropriate. Once the adopted methodology is properly understood, many of the apparent points of dispute fall away.

Socio-Economic Benefits

Introduction

8.98 The Airport is situated within an area of rapid population growth and its important role in the local economy is well-recognised by both LBN and the Greater London Authority. In 2019, the Airport employed 2,310 on site and generated a further 850 jobs within the local area or 1,370 across London, through its supply chain and induced effects.

¹⁰⁵ CD3.7.47, page 9, para 2.17

- 8.99 The proposals would allow the Airport to grow to serve 9mppa, delivering important economic, social and environmental benefits that are aligned with the principles of sustainable development, national aviation policy and the UK's wider economic objectives.
- 8.100 While the socio-economic benefits are not directly the subject of a reason for refusal, it is implicit in reason for refusal 1 that LBN does not consider that the socio-economic benefits of the development outweigh the noise effects of the proposals, notwithstanding the consensus over the scale of the benefits that would be delivered.

Scope of dispute at close of evidence

- 8.101 The scope of disagreement in respect of socio-economic benefits with LBN is narrow. LBN does not challenge the scale of the socio-economic benefits. The only issues raised by LBN in its evidence relate to the past record of meeting local jobs targets and the timing of the realisation of benefits in relation to the environmental effects of the development. For the reasons explained later in this section, both of these issues are based on a misunderstanding of the evidence by LBN.
- 8.102 The points raised by HACAN East are slightly more wide ranging, but relate principally to three areas, namely, the need to carry out a WebTAG appraisal, the relevance of the 'tourism deficit' created by outbound travel, and the extent to which there would be displacement. HACAN East has also sought to argue that the business productivity benefits have been overstated, however this argument is merely a consequence of arguments on forecasting business travel. For the reasons explained above, the DfT business travel elasticities used are appropriate.

Policy Context

National Policy Context

- 8.103 The Government's position on the importance of aviation to the UK economy is clear. The UK is heavily reliant on aviation as a means of international connectivity. One of the main objectives of Government, which was set out in the APF in 2013, is to ensure that the UK's air links continue to make it one of the best-connected countries in the world.¹⁰⁶ This aim was reiterated in Aviation 2050¹⁰⁷ and this also identifies aviation as an "*increasingly important facilitator of our modern lives*" and "*vital to how the UK is connected to the global economy*".¹⁰⁸
- 8.104 In addition to providing international connectivity, the role of airports both as centres of employment and catalysts of economic growth is well-established and recognised in national policy. The APF provides strong support for

¹⁰⁶ CD3.5.01, page 9, para 9

¹⁰⁷ CD3.5.04

¹⁰⁸ Ibid, page 20, paras 1.5 – 1.7

sustainable air transport growth in recognition of the significant economic and social benefits that it brings.¹⁰⁹

- 8.105 This is echoed in Aviation 2050, which identifies airports as vital hubs for local economies and explains that: *"The government has been clear about the importance of aviation to the whole of the UK. Aviation creates jobs across the UK, encourages our economy to grow and connects us with the rest of the world as a dynamic trading nation. It also helps maintain international, social and family ties. This is why the government supports the growth of aviation, provided that this is done in a sustainable way and balances growth with the need to address environmental impacts."*¹¹⁰
- 8.106 More recently, in FTTF,¹¹¹ the Government recognises aviation's huge strategic importance to the country and the role of airport expansion in championing the levelling up agenda through job creation and supporting associated supply chains.

Local Policy Context

- 8.107 As previously stated, the OA, within which the Airport sits, is one of the largest in London. The OAPF¹¹² recognises the Airport's role as an anchor economic asset of regional and international importance, which continues to bring important economic benefits to the area. In this context, it supports the continued success of the Airport.
- 8.108 The Airport is recognised as a key local employer by both the Greater London Authority and LBN. Policy T8 of the LP is supportive of the role that aviation plays in the economy, recognising that London's major airports provide essential connectivity for passengers and freight, support vital trade, inward investment and tourism, generate prosperity, and provide and support significant numbers of jobs.¹¹³
- 8.109 The NLP¹¹⁴ similarly recognises the role of the Airport as a catalyst for investment within the area. The spatial strategy in policy J1 is identified as continued development and promotion of the Arc of Opportunity and employment hubs, of which the Airport is identified.

Wider Context

- 8.110 As stated above, the Airport is located within and in close proximity to areas of significant deprivation and unemployment. The NLP recognises that LBN is the 23rd most deprived borough in the whole of England and Wales, with multiple indicators demonstrating serious employment and skills challenges. LBN has higher unemployment levels than the London average.

¹⁰⁹ CD3.5.01, page 20, para 1.20

¹¹⁰ CD3.5.04, page 18

¹¹¹ CD3.5.06

¹¹² CD3.10.01

¹¹³ CD3.3.1, page 439, para 10.8.2

¹¹⁴ CD3.4.1, page 28, para 1.23

- 8.111 HACAN East sought to suggest that while unemployment was an issue that was facing this area at the time of the 2011 census, more recent data demonstrated that this issue had become less acute. However, the ES was produced before the 2021 census data had been published. In addition, the quality of the census data collected in 2021 has been subject to concerns, due to the continuing effects of the COVID-19 lockdown.
- 8.112 The Airport also sits in the East London priority area for Levelling Up. Four local authorities in East London are in the highest priority category for levelling up, including LBN, and three in priority 2.¹¹⁵ The high priority is driven primarily by unemployment and lack of jobs, with five of the seven East London authorities identified in the top 20 for the highest unemployment. This is important context within which the socio-economic benefits that would be delivered by the proposals need to be considered.

The Assessment of Socio-Economic Benefits

Approach to assessment

- 8.113 There is no dispute with LBN in respect of the methodology used by LCY to assess the socio-economic benefits. The only point raised by HACAN East relates to the way in which displacement has been taken into account.
- 8.114 The economic benefits have been assessed within a commonly used and well accepted framework for analysis, which is consistent with best practice. This framework splits the economic impacts into a series of effects, which, in broad terms, can be classified as either relating to the operation of the Airport as an economic activity, or wider economic impacts that accrue to the users of air transport services from the connectivity offered by the Airport. These wider economic impacts arise from effects such as increased trade, increased inward investment, agglomeration effects, labour market benefits or increased tourism. Both the direct benefits from the operation of the Airport and the connectivity it provides flow through to the broader economy through supply chain (i.e. indirect) and induced effects.
- 8.115 The socio-economic impacts of the proposals are set out in detail in LCY's Need Case.¹¹⁶

Direct, indirect and induced employment

- 8.116 The Proposed Amendments would deliver a substantial number of jobs within the local study area:
- a. 1,870 new jobs (1,630 FTE) across the local study area¹¹⁷ compared to 2019, of which 1,340 jobs total are direct jobs at the Airport (1,170

¹¹⁵ CD3.2.4.

¹¹⁶ CD1.60

¹¹⁷ A 'local study area' has been defined for assessing the local economic impact of the Airport based on the area defined in the S106 Agreement (INQ30). This comprises the London boroughs of Barking and Dagenham, Bexley, Greenwich, Hackney, Havering, Lewisham, Newham, Redbridge, Southwark, Tower Hamlets, Waltham Forest and Epping Forest in Essex.

- FTE), which would be available to local people supporting the levelling up agenda in Newham and neighbouring boroughs; and
- b. 2,180 jobs (1,900 FTE) in London compared to the 2019 position or 1,910 (1,660 FTE) compared to the DM Scenario.

8.117 The creation of new jobs is of real significance to local people, in particular those living in the areas of deprivation within East London. This is not just some abstract economic exercise; real jobs make real differences to people's lives – not only those who take the jobs, but also their families and wider communities. Indeed, the delivery of new jobs is aligned with local policy supporting the role of the Airport as an employment hub and is a significant contribution to the 'levelling up' of the local area.

GVA

- 8.118 The economic footprint of the Proposed Amendments in terms of GVA is as follows:
- a. A net (additional) GVA of £205 million in the local study area compared to the 2019 position or £144 million compared to the DM Scenario; and
 - b. A net (additional) GVA of £249 million in London compared to the 2019 position or £175 million compared to the DM Scenario.

Wider economic impacts

- 8.119 The proposals would generate wider economic impacts arising from business productivity and inbound tourism:
- a. The Airport's impact on the London economy from wider economic impacts from increased business productivity would increase to £526 million in GVA and 2,050 jobs (1,740 FTE). Compared to the DM Scenario this is an increase of 380 jobs (320 FTE) and £96 million in GVA;
 - b. Wider economic impacts for London from inbound tourism increasing to £559 million in GVA and 4,900 jobs (3,890 FTE). Compared to the DM Scenario this is an increase of 1,420 jobs (1,110 FTE) and £159 million in GVA; and
 - c. Social welfare benefits from factors such as passenger surface access time savings, producer and tax benefits and cost savings, allowing for construction costs, which total £371 million.¹¹⁸
- 8.120 The proposals would also result in the acceleration of the construction programme for the already approved CADP1 permission infrastructure and passenger facilities.

Timing of benefit realisation

- 8.121 LBN originally sought to argue that there would be a disparity in timing between the delivery of socio-economic benefits and the environmental effects arising from Saturday afternoon operations. In short, LBN considered that while the benefits would inevitably accrue gradually as the passenger throughput increases, residents would be subject to the noise of Saturday

¹¹⁸ Excluding carbon costs.

afternoon flights immediately.

- 8.122 It is now accepted by LBN that the effect of condition 89, which limits the new slots on Saturday afternoons to 'new generation' aircraft means that the take up of these slots would inevitably be gradual. This is not a case, therefore, where operations would go from 'zero' to 'full' overnight. As the airlines secure new generation aircraft in order to operate on Saturday afternoons, the benefits of the quieter aircraft would also begin to be felt on other days of the week. In this regard there is clearly a symmetry between the take-up of slots on Saturday afternoons and the delivery of an overall reduction in noise. As demonstrated by LCY's Need Case, there is also a link between the use of the extended operating hours on Saturdays and the rate at which throughput would grow, thereby delivering the socio-economic benefits.

Outstanding Issues in Dispute

- 8.123 As noted above, the scope of the dispute in respect of socio-economics is narrow. The sole outstanding point of dispute with LBN is whether the weight to be afforded to the benefits of the proposals ought to be reduced in light of the very small shortfall in jobs for local people generated by the Airport, as against targets in the CADP1 section 106 obligation; in other words, historic job delivery.
- 8.124 There are three outstanding issues in dispute with HACAN East; the need to carry out, and relevance of, a full WebTAG appraisal and the associated environmental costs of the amendments; displacement; and outbound tourism.

Historic Job Delivery

- 8.125 LBN's argument on the extent to which local jobs targets have been met goes not to the scale of the socio-economic benefits, which is agreed, but the weight which should be afforded to these benefits in the overall planning balance.
- 8.126 In the OR, LBN identified that there were certain targets within the CADP1 section 106 agreement that had not been met. The OR noted, however, that LCY had provided reasonable justification for why this was the case. This included the difficulty in carrying out background checks, driving licence requirements and employability skills.¹¹⁹
- 8.127 It is important to be clear that this concern does not relate to the number of jobs created at the Airport. It relates solely to the proportion of those jobs that are held by residents from LBN and the local area. As recorded in the OR, the matter relates primarily to the difficulty in carrying out background checks to determine whether or not an employee was resident of the local area. This has been particularly influenced by the effect of the pandemic. It is notable that in the latest set of data in the OR, the percentage of jobs for Newham residents was only 1% below the target, but the level of jobs from the local area was 9% over the target set out in the section 106. This

¹¹⁹ CD4.3.1, page 48, para 102

demonstrates that while the extent to which local jobs targets are met would inevitably vary over time, this should not diminish the weight to be attributed to job generation overall.

- 8.128 In light of LBN's acceptance as to the nature of this issue, there is no justification for reducing the weight to be given to the socio-economic benefits of the proposals.
- 8.129 We note that HACAN East also raised a point about historic job rates and the potential effects of future productivity improvements in relationship to the number of jobs that would be created. First, it needs to be recognised that the employment forecasts had already taken into account productivity improvements. Secondly, even if there were greater productivity improvements than she has assumed, any such additional productivity increases would apply in both the DC Scenario and the DM Scenario, such that there would continue to be a net increase in employment between those two cases.

Webtag and Environmental Costs

- 8.130 The relevance of the WebTAG appraisal guidance to the appeal has been the subject of much debate at the Inquiry. These arguments are not new; they have been raised repeatedly at recent airport appeals. There is yet to be an airport decision in which these arguments are accepted.
- 8.131 There are a number of important preliminary points to note:
- It is no part of HACAN East's case that the SoS cannot grant planning permission in the absence of a full WebTAG appraisal;
 - Accordingly, there can be no dispute that there is no 'requirement' to carry out a full WebTAG appraisal in support of the amendments. Indeed, arguments that a planning application by a private developer and/or a determination by the SoS on appeal or call-in is a "*government intervention*" has been considered in a number of recent planning appeals and consistently rejected;¹²⁰
 - At its highest, therefore, HACAN East's case is that the WebTAG guidance is relevant as a matter of best practice and that a full WebTAG appraisal would be useful for the determination of the appeal;
 - There is no dispute that a WebTAG appraisal has not been requested by LBN, the GLA, the Planning Inspectorate or the SoS in the context of this appeal;
 - It is no part of HACAN East's case that WebTAG should be used to assess the environmental effects arising from noise.¹²¹ HACAN East's case is solely that a WebTAG appraisal is relevant to understanding the scale of the economic effects of the proposals, which requires environmental effects to be monetised;
 - With regard to the usefulness of a WebTAG appraisal, it is common ground that WebTAG is a blunt instrument; HACAN East explained that

¹²⁰ CD8.01, CD8.06, CD8.08

¹²¹ This reflects the IEMA guidance at para 7.87 that makes clear that attempts to monetise noise effects do not impact the determination of the nature and extent of the noise impact, but that such approaches are likely to be found in the overall economic valuation of a development (CD3.7.22).

there are lots of nuances that are not captured by monetisation, as WebTAG necessarily relies on simplifying assumptions.

- 8.132 Against this background, the scope of the outstanding dispute is whether a WebTAG appraisal would be useful for assessing the economic effects of the Proposed Development in the determination of the appeal, such that the absence of such an appraisal weighs against granting planning permission. LCY's firm position is that while such an appraisal may be taken into account, it is not useful and therefore should be given limited, if any, weight, for the following three main reasons.
- 8.133 First, carrying out a full WebTAG appraisal creates a parallel 'balance' to that of the overall planning balance. It is simply not clear how the WebTAG appraisal maps onto the statutory framework provided by section 38(6) of the PCPA 2004. This means that while a WebTAG appraisal can be produced, it is very difficult to know what to do with it in the decision-making process. This is why the WebTAG Guidance makes clear that planning decisions are to be considered in the normal way.¹²²
- 8.134 This difficulty is compounded by the fact that a WebTAG appraisal incorporates matters that are already taken into account in the conventional planning balance. One such example is the way in which noise effects are accounted for. In the present appeal, there is no dispute that the noise effects from the Proposed Development have been taken into account through the assessment in the ES. However, the effect of this approach is that noise effects are taken into account both as an output of the ES and in terms of the reducing the socio-economic benefits of the proposals through the monetisation of changes in noise within the WebTAG appraisal. Such an approach leads to double counting and highlights the difficulty with seeking to incorporate such an analysis into planning decision making, as opposed to option appraisal.
- 8.135 Second, if the SoS was minded to give weight to HACAN East's appraisal, it is important to note that it continues to represent a significant overestimate of the economic costs of the environmental effects of the Proposed Development. HACAN East have sought to monetise the noise effects of the proposals in accordance with WebTAG.¹²³ The WebTAG workbook ascribes a monetary value for changes that move exposure from one 1dB band to another. HACAN East assumed that every person reported to experience a change of between 0.1 to 1.9dB in the ES experience an increase in noise levels of 1dB (the midpoint of the band).¹²⁴ In terms of the revised evidence presented by HACAN East¹²⁵ the results in the ES still show that the noise increases are lower than the adjusted figures used by HACAN East.¹²⁶ The average change in noise levels is 0.3dB. Not only does this render HACAN East's monetised figures unreliable, but it highlights the difficulty with using a WebTAG appraisal for these purposes. For the reasons explained in LCY's

¹²² CD3.10.4, page 3, para 1.1.4

¹²³ See Alex Chapman Rebuttal

¹²⁴ CD1.15 tables 8-54 (page 61) and 8-56(page 62)

¹²⁵ INQ25

¹²⁶ INQ29 and CD1.15 Tables 8-21(page 41) and 8-25(page 43)

note, there also remains issues with the monetisation of carbon emissions. In particular, the figures do not properly adjust for the displacement of carbon as required by the Guidance. Indeed, if the WebTAG Guidance were properly applied, the result would indicate higher social welfare benefits than assessed in the Need Case, including the costs of carbon.¹²⁷

- 8.136 Third, the lack of a WebTAG appraisal was specifically considered by the Panel of Inspectors in the Luton decision, who had regard to the consideration of the matter in the Bristol decision. The conclusion reached by the Panel was that the lack of a WebTAG appraisal did not weigh against the proposals. This was accepted by the SoS.¹²⁸
- 8.137 In conclusion, there is no requirement for such an appraisal to be carried out and the absence of such does not weigh against the proposals. It is readily apparent that the attempt to monetise environmental costs within the framework of WebTAG is fraught with difficulty and ultimately not very useful. For these reasons, LCY considers that HACAN East's appraisal should be afforded little or no weight in the planning balance.

Displacement

- 8.138 'Displacement' is the concept of economic activity in one location taking or moving economic activity away from somewhere else, or some other economic activity. In other words, it is the idea that if economic activity does not happen in one location or in another sector, it would merely happen elsewhere.
- 8.139 HACAN East seeks to argue that the effect of displacement of employment means that the socio-economic effects of the proposals are less than those that have been calculated. In so doing, it is argued that LCY has failed to distinguish between local and national impacts.
- 8.140 With regards to displacement, there are three types of displacement that should not be conflated: (i) passenger displacement; (ii) aircraft displacement, and (iii) displacement in terms of employment. With regards to passenger displacement, the Need Case clearly indicates that if the Airport does not expand, the additional passengers would be forced to use alternative airports. It is for this reason that the disbenefit of increased journey time to the passenger's second choice of airport is captured in the economic assessment as 'journey time savings'. In this regard, passenger displacement has been allowed for in the assessment. With regards to aircraft displacement, if aircraft could not fly from the Airport, they would fly from another airport. The positioning aircraft to other airports during the weekend closure is a common practice at present. This means that the carbon emissions would be fully displaced and so are not, in that sense, additional at a national level.
- 8.141 With regards to the displacement in terms of employment, the significance of jobs at the local level are overlooked. Indeed, it is no surprise that LBN has not sought to pursue an argument on the basis of displacement; LBN

¹²⁷ INQ29

¹²⁸ CD8.06 para 15.190(page 132) & para 37(page 7)

welcome the generation of local jobs and GVA, which contribute towards strategic objectives for the area. The particular policy context here identifies the need for job creation and economic growth within the local area, in order to address the multiple indicators of deprivation in East London. The generation of jobs at, say, Uttlesford, is of no direct benefit to the residents of LBN. The concept of generating economic growth in particularly deprived parts of the UK is what underpins the Government's 'levelling up' agenda. Indeed, it is for this reason that the focus in the Need Case is on the benefits that would be realised locally.

- 8.142 Finally, the issue of displacement was considered in the Luton decision. The Panel, with which the SoS agreed,¹²⁹ concluded that the potential for displacement or spending did not weigh against the proposal.¹³⁰ In so finding, the Panel noted that the Panel in the Bristol decision had found it to be an unusual approach to favour economic development at airports elsewhere.

Outbound Tourism

- 8.143 The argument around outbound tourism and the so-called 'tourism spending deficit' was developed more fully in HACAN East's oral evidence. It was argued that the fact that UK residents typically spend more abroad than inbound tourists spend in the UK should weigh against the proposals.
- 8.144 Arguments relating to the negative economic impacts associated with outbound tourism are not new, but are often raised in the context of airport expansion.¹³¹ Such an approach ignores the well-established social and welfare benefit to outbound tourism. National policy both recognises these benefits and encourages outbound tourism. As explained above, there is no policy that seeks to limit the ability of UK residents to travel overseas for holidays, to visit relatives or for business in order to retain spending domestically and improve the UK's balance of payments. There is therefore no policy basis on which to reduce the weight to be given to the socio-economic and consumer benefits of the proposals on the basis of the so-called 'spending deficit.'

Conclusions on Socio-Economic Benefits

- 8.145 The socio-economic benefits of the proposals are substantial and their delivery in this area is strongly supported by policy. Importantly, they represent an increase over those delivered in respect of CADP1, which is a material change from when the planning balance was struck in respect of that application.
- 8.146 Having regard to the levels of unemployment and deprivation in the local area, significant weight should be afforded to these socio-economic benefits. The introduction of operations on Saturday afternoons is integral to the realisation of these benefits.

¹²⁹ CD8.06, page 7, para 37

¹³⁰ Ibid, page 131, para 15.185

¹³¹ For example, similar arguments were advanced at the Bristol Airport Inquiry.

Noise

Introduction

- 8.147 As with all development that seeks to deliver substantial socio-economic benefits, there would inevitably be some degree of environmental impact associated with the delivery of those benefits. It falls to the planning system to reconcile the national, regional and local needs with the impacts that are borne most directly by the local community. The delivery of infrastructure improvements, such as airport expansion, is no different.
- 8.148 The impact of noise is one of the environmental effects that policy recognises as a key concern for airport development. Both MBU and the OANPS identifies the need to strike a balance between economic, social and environmental goals. It is for local planning authorities in the first instance, and Inspectors or the SoS on appeal, to carry out this balancing exercise within the framework of national, regional and local policy.
- 8.149 It is notable that noise is the only environmental effect that is the subject of a reason for refusal. It is important to stress, however, that even with noise, the objection is not based on the 'overall' or 'total' noise effects; these reduce compared to 2019 or the currently permitted noise contours. The reason for refusal relates exclusively to the noise effects arising from the additional three early morning flights and the extended operating hours on Saturday afternoons.

Scope of Dispute at Close of Evidence

- 8.150 The scope of the dispute between LCY and LBN in respect of noise is strikingly narrow. There are significant areas of agreement, as follows:
- a. There is substantial agreement about the methods, noise indices and modelling outputs on noise set out within the ES. This includes the appropriateness of the future scenarios assessed; the forecasts used for the noise assessment; the study area; the air noise computation methodology and modelling software; the inputs to the model; the identification of sensitive receptors; the noise indices used;¹³² the computed noise outputs; the conclusion that the number of people exposed to significant levels of day time noise would reduce compared to the 2019 baseline, and that those levels would be in line with that predicted for the CADP1 permission, with a reduction in the size of the 57dB L_{Aeq16h} contour by 20% compared with the contour area limit specified in the CADP1 permission;
 - b. Significantly, there is no dispute that on the basis of the conventional L_{Aeq} metrics¹³³ and, taking account of the proposed mitigation measures, the proposals would not give rise to a significant adverse effect in respect of air noise;
 - c. There is now no dispute that the proposed mitigation is in accordance with the policy requirements in the NPSE to avoid significant adverse

¹³² This is subject to LBN's position that the separate assessment of weekend noise is not appropriate.

¹³³ I.e. the metrics that are identified in Government policy and guidance as the basis of decision making.

effects on health and quality of life (above SOAEL) through sound insulation and to mitigate and minimise noise between the LOAEL and the SOAEL;

- d. There is no dispute that there are no significant environment effects arising from construction noise, vibration or surface access;
- e. There is no dispute that there are no significant environment effects arising from aircraft ground noise, albeit LBN considers that the increased ground noise on Saturday afternoons must be taken into account when considering the significance of the reduction in curfew; and
- f. As indicated above, it is agreed that the amendments do not give rise to significant adverse population health effects, including as a result of noise. It is therefore no part of LBN's case that the proposals give rise to unacceptable impacts on population health. The reason for refusal relates solely to the impact on 'amenity.'

- 8.151 LBN's case turns wholly on the need to assess the non-technical significance of introducing flights on Saturday afternoon, and the fact that the noise arising from these flights would be 'plain as a pikestaff.' LBN consider that a judgement has to be made on the basis of non-technical considerations.
- 8.152 While the reason for refusal identified noise from both the early morning flights and those on Saturday afternoons, there has been a notable absence of any discussion at the Inquiry as to the effects of the early morning flights. Indeed, while LBN maintains that the Saturday afternoon flights are significant for non-technical reasons which cannot be captured by any environmental impact assessment, no comparable argument has been advanced in respect of the early mornings. Indeed, even on LBN's case, there is no reason why any special non-technical approach would be required to assess the significance of three additional flights within a period that the Airport is already operating. The early morning flights (0630-0659) are part of the night noise assessment (2300-0700) and it was rightly accepted by LBN that the change in the $L_{Aeq,8hr}$ metric in relation to the three additional flights was not a significant adverse effect.
- 8.153 On the basis that it is common ground that the proposals (other than those concerning operating hours on Saturday afternoons) do not give rise to any significant effects, that part of the reason for refusal clearly falls away.
- 8.154 The specific issues in dispute raised by HACAN East are identified later in this section. By way of a preliminary observation, however, HACAN East's case has developed since the submission of its Statement of Case and written evidence, which focussed upon the effects of the amendments outside the 57dB noise contour. The way in which the HACAN East's concern was cast was that the data gathered from a citizen science study raises questions about the accuracy of the model in being able to predict the noise impact of a future expanded London City Airport away from the proximity of the runway. Their evidence too was predicated on the need to use supplementary metrics, to reflect disturbance outside the conventional noise contours. At no point was any question raised about the correctness of those contours or the noise modelling that underpins them. At that stage, therefore, it was understood that HACAN East was not seeking to question the calculation of noise effects within the contour.

- 8.155 During the course of the Inquiry, however, HACAN East's case developed into a challenge to LCY's calculation of air noise effects in the ES. This is notwithstanding that it did not call evidence from a technically qualified noise expert. For the reasons set out in detail below, HACAN East's criticism of the noise contours is based on a complete misunderstanding about how new generation aircraft impact those contours.

Policy Context

National Policy Context

- 8.156 In respect of noise, the APF identifies that the Government's overall objective is to *limit and where possible reduce the number of people in the UK significantly affected by aircraft noise*, consistent with the NPSE. It makes clear that the Government wants to *strike a fair balance* between the negative impacts of noise and the positive impacts of flights. In this context, the APF sets out that: "*As a general principle, the Government therefore expects that future growth in aviation should ensure that benefits are shared between the aviation industry and local communities*".¹³⁴
- 8.157 The guiding principle for the provision of noise mitigation as set out in the APF is that *efforts should be proportionate to the extent of the noise problem and the number of people affected*. It is *neither reasonable nor realistic for such actions to impose unlimited costs on industry*. Also of note is that the APF refers to 'curfew' in the context of operating hours, as distinct from 'respite', which relates to the planned and defined periods of noise relief for those living under a flight path through the use of multiple routes or alternating patterns of operation.¹³⁵
- 8.158 The NPSE¹³⁶ provides the policy framework for noise management decisions, in order to ensure that noise levels do not place an unacceptable burden on society. The NPSE introduces the following concepts for categorising noise effects:
- a. NOAEL, being the level at which no effect can be detected;
 - b. LOAEL being the level above which effects on behaviour and adverse impacts on health and quality of life can be detected; and
 - c. SOAEL being the level above which significant adverse effects on health and quality of life occur.
- 8.159 The policy aim in the NPSE is to avoid, minimise, mitigate and, where possible, reduce significant adverse impacts on health and quality of life within the context of sustainable development.
- 8.160 With specific regard to aviation noise, the NPPG¹³⁷ provides guidance on establishing whether noise is likely to be a concern and the relevant actions to be taken for noise at different levels. It explains that as noise crosses the

¹³⁴ CD3.5.01 page 55, para 3.3

¹³⁵ CD3.5.01 paras 3.32(page 61) and 3.35(page 62). This is consistent with the ANPS at page 57, para 5.62 (CD3.5.02) and the Government's Air Navigation Guidance, Glossary in Annex A (CD3.5.09).

¹³⁶ CD3.7.02

¹³⁷ Paragraph 005 Reference ID: 30-005-20190722

LOAEL threshold, it starts to cause small changes in behaviour and attitude such that consideration needs to be given to mitigating and minimising those effects. However this is expressly subject to the need to take account of the economic and social benefits being derived from the activity causing the noise.

- 8.161 The NPPG defines SOAEL as the level at which a material change in behaviour such as keeping windows closed for most of the time or avoiding certain activities during periods when the noise is present. The NPPG continues if the exposure is predicted to be above this level the planning process should be used to avoid this effect occurring, for example through the choice of sites at the plan-making stage, or by use of appropriate mitigation such as by altering the design and layout. While such decisions must be made taking account of the economic and social benefit of the activity causing or affected by the noise, it is undesirable for such exposure to be caused. The NPPG also introduces the concept of UAEL, which is described as follows: "*At the highest extreme, noise exposure would cause extensive and sustained adverse changes in behaviour and / or health without an ability to mitigate the effect of the noise. The impacts on health and quality of life are such that regardless of the benefits of the activity causing the noise, this situation should be avoided.*"¹³⁸ The noise hierarchy in the NPPG identifies that the relevant action in respect of such noise levels is "prevent."
- 8.162 The NPPG also makes clear that noise must be looked at in the context of wider characteristics of a development proposal, its likely users and its surroundings, as these can have an important effect on whether noise is likely to pose a concern.
- 8.163 Paragraph 191 of the NPPF sets out of the aim of ensuring that development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment. In so doing, proposals should mitigate and reduce to a minimum potential adverse impacts from noise, avoid noise from giving rise to significant adverse impacts on health and quality of life. It is important to note that findings of noise levels above SOAEL or LOAEL do not mean that there is a 'significance' effect in terms of EIA (as explained further below).
- 8.164 MBU¹³⁹ recognises that the development of airports can have negative as well as positive local impacts, including on noise levels. It notes that, as airports look to make the best use of their existing runways, it is important that communities surrounding those airports share in the economic benefits, and that adverse impacts such as noise are mitigated where possible.
- 8.165 The OANPS¹⁴⁰ states that: "*The Government's overall policy on aviation noise is to balance the economic and consumer benefits of aviation against their social and health implications in line with the International Civil Aviation Organisation's Balanced Approach to Aircraft Noise Management. This should*

¹³⁸ Paragraph 005 Reference ID: 30-005-20190722. It is agreed that no one is forecast to be exposed to levels above the UAEL threshold for either day or time noise as a result of the proposals.

¹³⁹ CD3.5.03, page 8, para 1.22

¹⁴⁰ CD3.7.03

take into account the local and national context of both passenger and freight operations, and recognise the additional health impacts of night flights.

The impact of aviation noise must be mitigated as much as is practicable and realistic to do so, limiting, and where possible reducing, the total adverse impacts on health and quality of life from aviation noise."

- 8.166 The OANPS confirms that the words "*limit, and where possible reduce*" in the APF remains the appropriate wording. The OANPS highlights, however, that the economic and consumer benefits may offset an increase in the adverse effects of noise, explaining that "*an overall reduction in total adverse effects is desirable, but in the context of sustainable growth an increase in total adverse effects may be offset by an increase in economic and consumer benefits. In circumstances where there is an increase in total adverse effects, 'limit' would mean to mitigate and minimise adverse effects, in line with the [NPSE]*"¹⁴¹ (underlining added). This is an important clarification of the 'limit and where possible reduce' policy approach.
- 8.167 With regards to how the approach in the OANPS is to be applied, what it requires is that the adverse noise effects are balanced against the positive noise improvements, as well as the socio-economic benefits of a development. In this regard, the OANPS refers to the desirability that the total adverse effects are reduced but acknowledges that an increase in total adverse effects can be offset by socio-economic and consumer benefits. This takes place however within the overall planning balance, rather than importing a requirement to conduct a 'balance within a balance.'
- 8.168 It is also notable that nowhere in policy is Saturday afternoon identified as being of particular sensitivity, as agreed by LBN.

Local Policy Context

- 8.169 RfR1 refers to policies D13 and T8 of the LP and policies SP2 and SP8 of the NLP. Policy D13 states that new noise and nuisance generating development proposed close to residential and other noise-sensitive uses should put in place measures to mitigate and manage any noise impacts. It further states that development proposals should not normally be permitted where they have not clearly demonstrated how noise and other nuisances would be mitigated and managed. It is a matter of common ground that this part of the policy refers to the principles in the noise hierarchy in the NPPG. The policy also makes clear, however, that established noise generating uses should be allowed to "*...remain viable and can continue or grow without unreasonable restrictions being placed upon them*"¹⁴² (underlining added).
- 8.170 LP Policy T8 (aviation) requires that environmental and health impacts of aviation-related development are fully acknowledged and should include mitigation measures that fully meet external and environmental costs. It further states that any airport expansion scheme must be appropriately assessed, and if required, demonstrate an overriding public interest or no suitable alternative with fewer environmental effects. The policy also

¹⁴¹ CD3.7.03, page 3

¹⁴² CD3.3.1, criterion B

requires proposals to take full account of environmental impacts and the views of affected communities.

- 8.171 NLP Policy SP2 requires development proposals to address various strategic principles.¹⁴³ The policy identifies the need to improve employment levels and reduce poverty, as factors that are important for the delivery of health neighbourhoods, while attending to the environmental impacts of economic development including public safety, noise, vibration and odour. The supporting text states that the policy should be implemented generally through the deployment of other policies including Policy SP8.
- 8.172 NLP Policy SP8 requires all development to achieve good neighbourliness and fairness from the outset by avoiding negative and maximising positive social, environmental and design impacts.... The supporting text makes specific reference to the Airport and to its presence close to high profile regeneration sites and for the design of those developments to respond to noise, while also not allowing unfettered intensification of disturbance.¹⁴⁴

Wider Context

'Uniqueness' of the Airport

- 8.173 It has been said by HACAN East that the Airport is 'unique' in terms of its proximity to residential development. However, the Airport has a smaller population count within its contours than Heathrow, Birmingham or Manchester.¹⁴⁵ Nor is the density of new development nearby to the Airport unique; many airports are situated within areas of growth. What the level of new development does demonstrate, however, is that developers are capable of designing new development to a suitable standard to co-exist alongside the Airport in accordance with the agent of change principle.

Existing Controls on Noise

- 8.174 There are a number of existing controls on the Airport that are aimed at mitigating the effects of noise on residential amenity. These include the following (with reference given, where relevant, to the conditions on the CADP1 permission):
- a. Aircraft movement limits (Conditions 22 to 27);
 - b. Restrictions on airport operating hours (Conditions 8 and 17);
 - c. Noise abatement departure and arrival procedures (as defined by the NOMMS that is secured by Conditions 30 and 31);
 - d. Combined noise and track monitoring systems (as defined by the NOMMS, secured by Conditions 30 and 31);
 - e. Quiet operating procedures (as defined by the NOMMS, secured by Conditions 31);
 - f. Departure noise incentives and penalties scheme, including a fixed penalty for exceeding upper noise limits is charged at a rate of £600 per dB of exceedance. The money from any penalties accrued is added to the Community Fund;

¹⁴³ CD3.4.1

¹⁴⁴ CD3.4.1, page 99, para 2.113

¹⁴⁵ CD3.7.04, page 19, Table 1

- g. Ground noise controls, including restrictions on the timing and noise levels of ground engine running and limitations on the use of Auxiliary Power Units (Condition 8);
- h. Noise contour area limits set by the Noise Contour Strategy that currently seek to reduce the area of the noise contour by 2030 and every 5 years thereafter (Condition 33);
- i. Quota Count limits in accordance with the Airport's innovative Aircraft Noise Categorisation Scheme (Conditions 18 and 19);
- j. Airport perimeter noise barriers (Conditions 53 and 54);
- k. SIS secured by the section 106 agreement for the CADP1 Permission; and
- l. Community Fund that is secured by the section 106 agreement for the CADP1 Permission.

8.175 Indeed, the number of noise related controls at the Airport is quite unique. A number of these measures are to be enhanced or amended as part of the proposals, as explained below. It is necessary to consider the suite of mitigation measures in the round, rather than considering the effect of changing one measure in isolation. While the proposals would amend the operating hours to permit flights on Saturday afternoons, they would also reduce the overall noise contour, introduce a condition to limit the new slots to new generation aircraft, and improve the noise insulation scheme and community fund. It is simply not appropriate to focus on one area of change without properly acknowledging and taking account of the others.

Assessment of Noise Effects

Matters of Approach

- 8.176 The noise effects of the amendments are assessed in detail in Chapter 8 of the ES.¹⁴⁶ The assessment includes noise generated by four sources, namely, air noise, ground noise, road traffic noise and construction noise.
- 8.177 As noted above, exceeding a LOAEL threshold and, in particular, exceeding a SOAEL threshold, concepts introduced by the NPSE, does not in itself equate to a finding of 'significance' in EIA terms.
- 8.178 The assessment of air noise impacts in the context of EIA has regard to both the absolute level of noise and the difference in noise levels between the DC Scenario and the DM Scenario in 2025, 2027 and 2031, when the Airport would reach 9mppa. The ES also compares the noise levels against the 2019 baseline. A sensitivity test has been carried out to reflect the faster and slower growth scenarios, which result in slightly different forecast fleet mixes. Further sensitivity tests are presented in the ES to reflect a scenario in which the number of early morning movements meet the proposed limit every day, notwithstanding that historically the number of movements have been less than this limit, as well as a sensitivity analysis for an alternative fleet mix.
- 8.179 The ES uses the daytime $L_{Aeq,16h}$ and the night time $L_{Aeq,8h}$ as primary metrics. These metrics represent the air noise during the 92-day summer period; in other words, the busiest part of the year. These metrics have been

¹⁴⁶ CD1.15

confirmed by Government to be the most appropriate basis for decision making, as they are best correlated with community response.¹⁴⁷

- 8.180 In addition to the L_{Aeq} noise contours, which are typically produced based on the average modal split, the ES also presents single mode contours. These contours are produced on the basis of either 100% easterly or westerly operations for the entire 92-day summer period. These show the noise exposure levels when operations have a single runway direction. However, because the Airport only operates on average 30% of the time in easterly mode and 70% in westerly mode, the contours are in that sense an artificial worst case for those who experience either easterly or westerly operations. There are also no specific criteria available to rate noise levels associated with single mode contours.
- 8.181 While HACAN East has invited the SoS to place great weight upon the single mode contours, they are not recommended as a basis for decision-making in Government policy. Indeed, SoNA 2014 concluded that they were "*unsuitable for decision making*" but that they may be helpful for portraying exposure and changes to exposure.¹⁴⁸
- 8.182 The primary metrics are supported in the ES by a range of supplementary metrics, which include noise awakenings at night-time and the number of aircraft movements where the maximum noise level exceeds 60 dB or 65 dB LA_{max} during the night and day respectively, which are the 'Nabove' metrics suggested by Government and Civil Aviation Authority (CAA) guidance.
- 8.183 In order to seek to capture the effects of the reduction in the Saturday curfew, the ES also presents a specific assessment of weekend noise in the summer period as a supplementary metric. There is, however, no specific guidance on how changes in weekend noise should be interpreted. For this assessment the same criteria regarding absolute noise levels and relative changes in noise levels have been used as those used to assess the impacts of daytime air noise. This actually represents a conservative approach, as any noise level or change in noise level experienced over the weekend would be expected to have a lesser impact than the same noise level or change in noise experienced seven days a week.
- 8.184 It is notable that a separate assessment of weekend noise was included within the scoping report submitted to LBN. While LBN do not now consider that reliance can be placed on this metric, at that time it indicated that the separate consideration of weekend noise seemed appropriate.¹⁴⁹
- 8.185 The ES assigns noise levels to LOAEL, SOAEL and UAEL for each noise source.¹⁵⁰ If a receptor is above the LOAEL then there is the potential for a significant effect in EIA terms, depending on the magnitude of change. Above the SOAEL, a smaller change is required for a significant effect in EIA terms to be found.

¹⁴⁷ As set out in CD3.7.08, CD3.7.04, CD3.7.05 & CD3.7.30

¹⁴⁸ CD3.7.04, page 71, para 8.11

¹⁴⁹ CD1.34

¹⁵⁰ CD1.37, Appendix 8.1

- 8.186 The LOAEL adopted for the purpose of the EIA is 51dB $L_{Aeq,16h}$ for day time air noise and 45dB $L_{Aeq,8h}$ for night-time air noise. The adopted SOAEL is 63dB $L_{Aeq,16h}$ for daytime air noise and 55dB $L_{Aeq,8h}$ for night time air noise. These levels are consistent with policy and have been widely used in recent decision-making. Neither LBN nor HACAN East challenge these levels. In terms of the magnitude of change, for receptors where the noise level would be between the LOAEL and the SOAEL, a value of 3dB was adopted as the threshold for a significant change. In respect of receptors where the noise level would be above the SOAEL, a lesser threshold of 2dB was adopted. A sensitivity analysis has also now been carried out to assess the effects of adopting a 1dB magnitude of change criterion above the SOAEL. As explained below, this assessment does not change the conclusions regarding significance of effects in the ES.

Summary of Air Noise Effects

- 8.187 The conclusion reached in the ES¹⁵¹ is that, taking account of enhanced embedded mitigation, there are no new or materially different operational noise effects due to the proposals. Due to the increased number of aircraft movements, the amendments would generate more noise than the DM Scenario in 2031, but less than the 2019 baseline, due to the greater use of quieter new generation aircraft.

Daytime Noise

- 8.188 With regards to daytime noise, the number of people exposed in the DC Scenario is lower than in the DM Scenario in 2025 and 2027 due to the faster take up of 'new generation aircraft', but slightly higher than in the DM Scenario in 2031,¹⁵² but all changes in daytime noise levels are rated as 'negligible'. Compared to the DM Scenario, there are two more schools above the threshold level of 52dB $L_{Aeq,16h}$, no change in the number of residential healthcare buildings, and six more amenity areas exposed to noise levels equal to or above the threshold level of 55dB $L_{Aeq,16h}$. All of the changes in noise at these receptors between LOAEL and SOAEL are less than 3dB, therefore the effects are rated as not significant. Those changes in noise levels at receptors above SOAEL are below 2dB and also rated not significant.
- 8.189 As noted above, there is no dispute with LBN that on the basis of the primary metrics, the proposals would not give rise to any significant effects in respect of daytime noise. Overall, the 57dB $L_{Aeq,16h}$ contour area would be 17% smaller than the actual contour in 2018 and 20% smaller than the permitted contour under the CADP1 Permission.

Nighttime Noise

- 8.190 With regards to nighttime noise, the number of people exposed is higher in the DC Scenario than the DM Scenario in 2025 and 2027, but broadly similar in 2031.¹⁵³ It should be noted, however, that no receptors would be above the SOAEL threshold in 2025 and 2027 and only 70 receptors in Camel Road

¹⁵¹ CD1.15 sets out the overall noise impacts in full.

¹⁵² Ibid, page 42, Table 8-23

¹⁵³ Ibid, page 44, Table 8-27

would be above the SOAEL threshold in 2031; however these people have already been treated by LCY's existing SIS, thereby avoiding any significant effect. Overall, night-time noise exposure levels are predicted to remain similar between the DM and DC Scenarios in 2031, with a slight decrease in the total number of those people adversely affected by air noise. This is because while aircraft movements are higher under the 2031 DC Scenario, this is offset by the predicted additional modernisation of the aircraft fleet.

- 8.191 As noted above, there is no dispute with LBN that on the basis of the primary metrics, the amendments would not give rise to any significant effects in respect of night-time noise.¹⁵⁴

Weekend Noise

- 8.192 With regards to weekend noise (based on the supplementary metric) there is an increase in the number of people exposed as a result of additional aircraft movements on Saturdays. All changes are between 0.1 and 1.9dB and are therefore negligible. Compared to the DM Scenario, there are the same number of residential healthcare buildings exposed to noise levels equal to or above the threshold level of 52dB $L_{Aeq,16h}$ and 18 more outdoor amenity areas exposed to noise levels equal to or above the threshold level of 55dB $L_{Aeq,16h}$. All of the changes in noise at these receptors are less than 3dB, therefore the effects are rated as not significant. The noise levels on Saturday afternoons would remain lower than Saturday mornings, which are in turn lower than weekdays.

Sensitivity Tests

- 8.193 The sensitivity tests based on the slower or faster growth scenarios demonstrate that air noise effects would not be materially different to the core case. The greatest change is 0.1dB, which is a negligible difference.
- 8.194 Both the alternative fleet mix and proposed early morning limit sensitivity scenarios demonstrate that the effects would not be materially different to the core case (a maximum change of 0.1dB and 0.2dB respectively).
- 8.195 The sensitivity analysis using a magnitude of change of 1dB above the SOAEL indicates that there are no receptors above the SOAEL that experience a change of 1dB or more for summer average daytime noise. Using a 1dB magnitude does not result in any change to the outcome of the assessment in the ES in respect of night-time noise. With regards to weekend noise, the assessment of which is itself a supplementary metric, 2,650 people would experience increases between 1 dB and 2 dB above the weekend SOAEL. This effect remains not significant in EIA terms, or in policy terms, as existing properties would benefit from the enhanced SIS that would avoid significant effects inside dwellings. This was accepted by LBN.

¹⁵⁴ The ES also demonstrates that the number of people highly sleep disturbed would be reduced, because of the higher proportion of quieter new generation aircraft, even without taking noise insulation into account. Once noise insulation is taken into account, LBN agreed that significant adverse effects are avoided.

Conclusion

- 8.196 There would be a reduction in the 57dB average summer daytime noise contour area by the time the Airport reaches 9mppa. This represents a 17% reduction when compared with the 2019 baseline and a 20% reduction compared with the current contour area cap secured by the CADP1 permission.
- 8.197 This is clearly consistent with the 'limit and where possible reduce' policy in the APF, as clarified in the OANPS. Indeed, with regards to the need identified in the OANPS to look at the total noise effects, it is clear that overall, the noise effects would actually be reduced as a result of the amendments. This is driven by allowing new slots on Saturday afternoons, but the limitation of those new slots to new generation aircraft, which results in an accelerated process of re-fleeting. Indeed, this is a matter that is agreed with both LBN and HACAN East.

Embedded Mitigation and Compensation

- 8.198 The comprehensive package of mitigation and compensation measures secured under CADP1 would be enhanced as part of the proposals, including:
- a. The commitment for only cleaner, quieter 'new generation' aircraft to be permitted to fly in any extended hours and additional slots;
 - b. A significantly enhanced SIS to further mitigate the impact of aircraft noise on neighbouring communities. This would feature a wider scope, including a lower noise threshold for eligibility in one of the categories of the Scheme, and a simplification of the process for obtaining works to enhance take up; and
 - c. An improved community fund, to target investment in public spaces and the community more generally close to the Airport and overflowed by aircraft.
- 8.199 There is now no dispute with either LBN or HACAN East that the proposed mitigation meets the policy requirements of the NPSE.
- 8.200 While the proposals would permit operations on a Saturday afternoon, an 18/17-hour closure from 1830/1930 on Saturdays until 1230 on Sundays would be retained.¹⁵⁵ Due to the retention of a cap on the maximum number of movements, the number of flights on Saturdays would continue to be significantly less than the permitted flights on weekdays.¹⁵⁶

Outstanding Issues in Dispute

- 8.201 The only outstanding points in dispute with LBN relates to the significance of introducing flights on Saturday afternoons and the impact of such operations on amenity. In this regard, the dispute is not a 'technical' one, but a matter of approach. LBN's position was clear; this is a 'rare occasion' on which their noise expert was unable to provide assistance as to the significance of a

¹⁵⁵ There is an additional hour of operations in the 'summer season' (defined as British Summer Time), during which, as part of the Proposed amendments, it is proposed that the Airport will be allowed up to 12 additional arrivals between 1830 and 1930 on Saturdays.

¹⁵⁶ 230 compared with 592 for a weekday.

development from a noise perspective. The approach urged upon the SoS was to take a 'value judgment' as to the significance of the loss of the curfew on Saturday afternoons.

- 8.202 HACAN East also seeks to demonstrate that the impact of the Saturday afternoon operations would be significant in terms of amenity. In addition to this, there are three other outstanding points in dispute with HACAN East:
- a. The use of the citizen survey study;
 - b. The significance of noise effects outside the contour; and
 - c. Whether the results of the citizen survey study cast doubt on the correctness of the noise contours presented in the ES.

Approach to Significance

- 8.203 As set out above, there is now nothing between LBN and LCY about the 'technical' noise effects. The ES demonstrates that the amendments would not give rise to significant effects from noise, either during the day, at night or (on the basis of both the conventional and supplementary metrics) at the weekend. Notwithstanding LBN's acceptance of the approach in its Scoping Opinion, LBN no longer considers that the weekend metric can be used to inform decision making.
- 8.204 Even if the weekend metric were to be set aside, however, there is no technical evidence that is capable of supporting a conclusion that the amendments would give rise to a significant noise effect. It is because of this that LBN is forced to invite the SoS to reach a 'value judgment' as to the significance of Saturday afternoon operations. In other words, to depart from the conclusions of the ES in order to conclude that there would be a significant effect, notwithstanding that there is no technical evidence to support such a conclusion.
- 8.205 LCY acknowledges the concerns of residents that have been raised. Indeed, it was because of residents' concerns that plans were scaled back for Saturday operations in order to protect Saturday evenings. LCY accepts that it is plainly the case that noise from these operations would be heard by those within the noise contours, and even those outside the noise contours. However, the central plank of Government policy is the balance between the economic and consumer benefits of aviation and its social and health implications. The OANPS makes clear that the way in which this is achieved is by requiring the mitigation of noise effects as much as practicable and realistic to do so in order to limit and where possible reduce the total adverse impacts on health and quality of life. The use of the words 'health and quality of life' is important and is clearly a reference to the approach in the NPSE that relates directly to those issues. Furthermore, Government policy recognises that even where there is an increase in adverse effects, these can be offset by socio-economic and consumer benefits. LP policy also recognises the need to avoid placing unreasonable restrictions on noise generating uses.
- 8.206 In this instance, there is no dispute that the total noise effects would be reduced by the proposals. In real terms, this is a benefit for those living within the noise contours. But this benefit can only be achieved if the conditions are created in which it is viable and attractive for airlines to re-fleet to new generation quieter aircraft, which have greater seating capacity

(amongst other benefits). Saturday afternoon operations are vital for enabling airlines to use their aircraft efficiently. Without the Saturday afternoon slots, the incentive to re-fleet created by condition 89 would not exist. In reality, therefore, the reduction in the curfew facilitates a reduction in the 'total' noise effects.

- 8.207 Nor is there any dispute that the proposals comply with national policy requirements in terms of mitigation. This is not a case where any party has identified additional mitigation that could be provided. LBN's case is simply that there is no means of mitigating the effects of operations on Saturday afternoons.
- 8.208 As explained further below in respect of the planning balance, LCY considers that the conclusion of the assessment in the ES and the agreed compliance with national noise policy in respect of mitigation means that the amendments are in compliance with development plan policy. To the extent that any impact on amenity arises, it is capable of being outweighed both by the beneficial noise effects and the substantial socio-economic benefits of the proposals.

Impact on Amenity

- 8.209 With regards to the impact on amenity, there would typically be around 80 aircraft movements on a Saturday afternoon or around six aircraft 'noise events' an hour at receptor locations, equating to roughly one every ten minutes. Even then, the full extent of additional flights would not be experienced at each receptor location because many of the people affected by aircraft noise from the Airport are only overflowed by either westerly or easterly operations, not both. Saturday afternoon aircraft noise is expected to remain on average quieter than a Saturday morning, which is in turn quieter than a weekday. This means that the existing SIS, which already successfully mitigates aircraft noise for residents' internal environments, would also be effective for the additional opening hours on Saturday afternoon.¹⁵⁷ Certain non-residential buildings, such as those used for education, are not generally used on a Saturday afternoon.
- 8.210 Where there is increased use of outdoor space on a Saturday afternoon, for example outdoor social gathering and recreational sport, these activities are likely to be also taking place on Saturday morning and any disturbance would be additional rather than new. Notwithstanding this, the new Community Fund would provide the opportunity for further investment in outdoor amenity areas and in the local community more widely.
- 8.211 In practical terms, the noise effects generated from Saturday afternoon operations are not new noise generating development and have co-existed with existing and new communities in the Royal Docks and the wider area for over 30 years. While it is recognised, therefore, that the Proposed Amendments are technically a form of 'development,' they are not, in reality, the introduction of a new noise and nuisance generating development (an airport), as that development has existed for many years. Indeed, it is

¹⁵⁷ New eligibility criteria will be introduced for the Intermediate Tier Scheme based on weekend noise exposure.

notable that large numbers of new dwellings have been constructed close to what is an existing international airport in the full knowledge of its existence and its long-standing aspirations for growth and, where appropriate, have been constructed with enhanced noise insulation to mitigate any impacts from aircraft noise. LCY's SIS has been in operation for many years and is available to those likely to be significantly adversely affected by aircraft noise but who do not already have effective mitigation in place.

- 8.212 Overall, the proposals would help to reduce noise levels at the Airport compared to the 2019 baseline as a result of accelerating the rate of re-fleetings.

Noise Effects below the LOAEL

- 8.213 The ES indicates that new generation aircraft are between 2 and 3.2 dBA quieter than their old generation equivalents on arrival, and between 4 and 5.4 dBA on departure.¹⁵⁸ These are based on measured noise data.
- 8.214 The primary argument advanced by HACAN East in respect of the Citizen Science Study ('CSS') is that it demonstrates that those outside the LOAEL contour would not benefit from the 'quieter' effects of new generation aircraft. There are two points to be made in response to this.
- 8.215 First, the results from the CSS are from locations substantially outside the LOAEL. It is the LOAEL that is identified by Government as the level above which adverse effects on health and quality of life can be detected. The noise performance improvements relied upon are of primary relevance to those within the LOAEL contour, where Government policy requires that adverse effects are mitigated and minimised. It is for this reason that noise levels further from the Airport are not calculated as part of the noise assessment. While it is perfectly proper to take into account noise effects occurring outside the LOAEL, the assessment of effects does need to be undertaken within the context of Government policy and, in particular, the NPSE.
- 8.216 As explained by LBN, it is not surprising that close to the Airport, the noise benefits of the new generation aircraft would be more significant: *"Close to the airport, figures produced by the appellants' consultants are not likely to be materially inaccurate, but further away where aircraft thrust settings are low and airframe aerodynamic noise predominates the difference between the two groups of aircraft would be smaller. Although aircraft noise associated with LCY results in representations from residents in locations many miles from the airport, the noise index values are not computed at such distances and significant effects in the context of formal environmental assessment do not arise."*¹⁵⁹
- 8.217 The fact that the benefits of new generation aircraft are more significant within the contours than outside the LOAEL contour does not, therefore, have any bearing on the noise effects that Government policy requires decision-makers to have regard to.

¹⁵⁸ CD1.15, page 19, Table 8-7

¹⁵⁹ Rupert Thornely-Taylor, PoE, page 32, para 6.3.7

- 8.218 Second, and in any event, the results from the CSS are themselves inherently unreliable. Figure 3 shows measured noise levels across six sites.¹⁶⁰ All of those sites are beneath the 'level' section of aircraft descent, such that the results of the measurements should be the same. However, the results show a 13dB variation, indicating that it is unreliable for the purposes of drawing out a 1.7dB change between different aircraft types.¹⁶¹
- 8.219 There is therefore no dispute that the benefits of new generation aircraft are more significant within the LOAEL contour. That is the area in which the noise benefits are relevant to decision making in policy terms. This is not to say that LCY does not want to better understand the performance of new generation aircraft during overflight further from the Airport, but simply that it does not weigh against the Proposed Developments. Indeed, LCY has already carried out monitoring between July and October 2023 in order to understand the difference in performance of the new aircraft types. LCY hopes to repeat this survey in order to gain a greater understanding of these effects.

Implications of the CSS for Noise Contours

- 8.220 During the course of the Inquiry, HACAN East sought to argue that the output of the CSS raises doubts as to the correctness of LCY's noise modelling. In particular, it was suggested that the LOAEL contour may in fact be considerably larger than modelled.
- 8.221 As explained above, the locations from which data was collected as part of the CSS are significantly outside the LOAEL contour. The LOAEL contour is wholly within the final stages of arrivals and the primary climb out, as these are the noisiest activities. The noise data that is used in the ES in respect of these stages is robust, as it is based upon LCY's long term noise monitoring, which is operated in accordance with the aircraft noise categorisation scheme. This is subject to ongoing review by LBN and reported in LCY's annual performance review.
- 8.222 HACAN East's point, developed in the Inquiry, that there is no noise monitoring of the 51dB and 54dB contours, misses the point. The contours are developed using the noise characteristics of each aircraft at source, the attenuation of noise with distance (i.e. the height of the aircraft above the receptor), and then verified by noise monitoring at appropriate locations. This is a well-recognised approach to air noise modelling at all airports¹⁶² and does not require noise monitoring at each and every location and/or contour line.
- 8.223 The measurements collected from locations under level flight as part of the CSS therefore have no bearing on the modelling that underpins the size of the contours.

¹⁶⁰ Christian Nold, PoE, Figure 3 (page 10) and para 2.17 (page 7)

¹⁶¹ The fact that the results of the assessment carried out for LCY and those from the CSS are similar is a coincidence.

¹⁶² The modelling meets the CAA's requirements.

Conclusion on Noise

- 8.224 The proposals would introduce flights on a Saturday afternoon when there are currently none. However, there is no dispute that on the basis of conventional noise indices that this would not give rise to a significant adverse effect. Moreover, the introduction of Saturday afternoon is crucial to delivering the overall noise improvements from new generation aircraft throughout the week. In OANPS terms, there is no dispute that the 'total' noise effects are reduced as a result of the amendments.
- 8.225 Coupled with the overall reduction in noise levels, the package of mitigation measures that are currently in place in respect of noise would be enhanced as part of the proposals. In particular, the extension to the Intermediate Tier Scheme through a new weekend noise eligibility criteria goes well beyond the SOAEL, and therefore would provide a real noise benefit for many thousands people throughout the whole week.¹⁶³

Other Matters

- 8.226 LCY has produced a range of technical notes on matters that are not the subject of reasons for refusal. These include technical notes on the topics of carbon and climate change, air quality, health and transport. Much of the detail in these notes is not in dispute. In particular, no party has raised an objection to the proposals on the basis of transport or air quality, such that these closing submissions contain no further discussion of these topics. HACAN East has raised points on both climate change and population health. LCY's position on these matters are therefore summarised briefly.

Carbon and Climate Change

Scope of the Dispute

- 8.227 The impact of the proposals in terms of carbon emissions and climate change is not a reason for refusal. The scope of the points raised by HACAN East in respect of carbon and climate change are narrow. In particular:
- a. There is no dispute as to the assessment of carbon emissions set out in the ES;
 - b. Notwithstanding the position set out in HACAN East's Statement of Case, there is now no dispute that the amendments do accord with national policy in respect of climate change, including the Jet Zero Strategy; and,
 - c. Unless the SoS interprets policy T8 of the LP as having been modified by the Mayor's non-statutory document 'London Net Zero 2030: An Updated Pathway'¹⁶⁴ it is common ground that the proposals comply with that policy insofar as it relates to carbon and climate change.

¹⁶³ It is clear therefore, in the context of the legal duty in *Satnam Millennium Ltd v SSHCLG* [2019] EWHC 2631 that the Airport has discharged any evidential burden of showing that there is an overall improvement in the noise climate with the proposals and that it has appropriately mitigated any residual effects in accordance with the NPSE.

¹⁶⁴ CD3.9.06

LCY's Assessment

- 8.228 Chapter 11 of the ES¹⁶⁵ provides an assessment of the carbon emissions that would result from the proposals and the significance of those emissions. The ES separately assesses aviation emissions on the one hand, and non-aviation emissions arising from Airport activities, on the other. The outputs of this assessment are summarised in section 3 of the Carbon and Climate Change topic paper.¹⁶⁶
- 8.229 With regards to aviation emissions, the ES uses five tests of significance. These involve comparing the carbon emissions that would be generated by the proposals with (i) the 'planning assumption' (37.5Mt CO₂) that was taken into account when setting the Fourth and Fifth Carbon Budgets; (ii) the Sixth Carbon Budget; (iii) the DfT Jet Zero Strategy's 'high ambition' in sector trajectory; (iv) national policy to reduce aviation emissions to net zero by 2050; and (v) considering whether the increase in carbon emissions is so significant that it would have a material impact on the ability of Government to meet its carbon reduction targets, including carbon budgets. The last of these is the test noted in paragraph 5.82 of the ANPS.
- 8.230 This approach to assessing significance has been endorsed by the High Court in the context of the expansion of Bristol Airport and Southampton Airport. In both cases, the Court endorsed the approach of comparing the projected carbon emissions to the Government's carbon budgets and considering the impact of the development on the ability of the Government to meet its climate change targets.¹⁶⁷
- 8.231 The conclusion reached in the ES in respect of aviation emissions is that the change in carbon emissions that would be generated by the proposals (as compared to the DM Scenario) would constitute a very small proportion of the 'planning assumption' (0.04% more than the DM Scenario during the 4th carbon budget and 0.14% more than the DM Scenario during the 5th carbon budget) and the Sixth Carbon Budget (0.03% more than the DM Scenario). The emissions generated would be consistent with the Jet Zero Strategy in-sector trajectory and the Jet Zero Strategy to reduce aviation emissions to net zero by 2050. In particular, the Jet Zero Strategy was based on the assumption of a number of airports expanding capacity, including London City Airport expanding to 11mppa by 2030. Based on these assessments, the increase in carbon emissions associated with the proposals would not have a material impact on the ability of Government to meet its carbon reduction targets, including carbon budgets.
- 8.232 In reaching these conclusions, regard has been had to the controls on aviation emissions that are imposed at a national level.¹⁶⁸ In particular, 99% of the aviation emissions (arising from 98% of flights) in the DC Scenario would be within the UK Emissions Trading Scheme, such that they would be subject to an overall cap on emissions that could not be exceeded. The

¹⁶⁵ CD1.18

¹⁶⁶ See Sean Bashforth, PoE, Appendix 2

¹⁶⁷ See CD8.08 paras 114 - 115 (Bristol Airport judgment) and CD8.10 paras 122 - 123 (Southampton Airport judgment)

¹⁶⁸ As recognised in CD3.4.03, page 5, para 1.11 and page 7, para 1.19

remaining 1% of emissions in the DC Scenario would be within CORSIA, the global scheme adopted by ICAO pursuant to which emissions from flights outside the UK ETS are offset. It is also relevant that the Government retains the ability to introduce additional measures in order to control aviation emissions should they be needed and is under a legal duty to ensure that the net zero carbon target and carbon budgets in the Climate Change Act 2008 is met.

- 8.233 With regards non-aviation carbon emissions, the proposals would make no difference to Scope 1 and 2 emissions, when comparing the emissions generated by the amendments with the DM Scenario.¹⁶⁹ These emissions are subject to measures set out in LCY's Carbon and Climate Change Action Plan (CCCAP) to achieve net zero emissions by 2030, which also seeks to manage scope 3 emissions insofar as it is able to.

Outstanding Matter in Dispute

- 8.234 The only outstanding point of dispute is the status and effect of the Mayor's 2030 net zero target. In particular, as a matter of interpretation, whether the publication of this target has amended policy T8.
- 8.235 HACAN East's position is that the difference between this appeal and previous airport inquiries is the relevant policy context. In particular, policy T8 of the LP specifically addresses the carbon emissions from aviation, in contrast to the development plan policies at issue elsewhere. HACAN East made clear that insofar as policy T8 is construed in line with the 2050 net zero target set out in policy GG6 of the LP and consistently with section 1 of the Climate Change Act 2008, there would be compliance with that aspect of the policy. However, their position is that the publication of the Mayor's 2030 target has the effect of amending the policies in the LP, as the supporting text refers to the Mayor's carbon reduction targets.¹⁷⁰
- 8.236 LCY's case is that the Mayor's 2030 target is non-statutory in nature and does not form part of adopted development plan policy. The nature of the document within which this target is contained is a paper for engagement that was, in any event, published prior to the Government's Jet Zero Strategy. The Jet Zero Strategy is clear in reiterating that carbon emissions from aviation are to be addressed at the national level. The Mayor's targets are plainly not capable of amending 'through the back door' adopted policy, which is itself consistent with the statutory net zero target.¹⁷¹
- 8.237 To the extent that the non-statutory 2030 target is taken into account as a material consideration, in circumstances where Government policy is clear that emissions from national aviation are to be addressed at the national level, then very little if any weight can be attributed to the Mayor's target. It

¹⁶⁹ CD1.18, page 38, Table 11-19

¹⁷⁰ CD3.3.1, page 440, para 10.8.8

¹⁷¹ *R (Cherkely Campaign) v Mole Valley DC* [2014] EWCA Civ 567, makes clear at [16] that supporting text is not itself a policy or part of a policy, and nor does it have the force of policy. Furthermore, as made clear in *New Dawn Homes v SSCLG* [2016] EWHC 3314 (Admin), it cannot impose a new or additional requirement outwith the policy and/or the Plan generally.

is not an appropriate role for regional policy or guidance to be setting a carbon target for international aviation. In particular, the tests of significance used in the ES have been endorsed by the High Court. The introduction of a non-statutory target plainly cannot render 'significant' in EIA terms effects that have been found to be 'not significant' in the ES.

Population Health

- 8.238 It is a matter of common ground with LBN that the Proposed Amendments do not give rise to any significant adverse population health effects. Chapter 12 of the ES¹⁷² provides an assessment of the effects of the proposals in terms of population health. The outputs of this assessment are summarised in section 5 of the Public Health and Wellbeing topic paper.¹⁷³ The assessment in the ES concludes that effects on residential amenity from noise generated by the proposals are not significant from a population health perspective and the socio-economic beneficial effects of the amendments are significant for population health.
- 8.239 The overall public health effect of the proposals is driven by the significant benefits¹⁷⁴ to population health, including important employment and training opportunities for vulnerable groups, including local people with long-term unemployment, high job instability or low incomes.
- 8.240 HACAN East has produced evidence in order to demonstrate that the amendments would impact on health. It is readily apparent, however, that the report relied upon by HACAN East is based on an incomplete or erroneous understanding of the proposals. In particular, the report identifies that LCY relies solely on quieter aircraft as mitigation, rather than noise insulation as is usually relied upon in order to comply with the NPSE. In these circumstances, no weight can be given to the report in terms of assessing the effects on population health.

Planning Policy and Planning Matters

Introduction

- 8.241 LCY's assessment of the overall planning balance depends upon the evidence on forecasting, socio-economics and noise, as summarised above, in addition to the assessment of those matters that are not identified as reasons for refusal. It is not the purpose of this section to repeat the analysis of the evidence set out above, but to draw on that analysis in the context of the legal and policy framework for the planning balance.

Scope of Dispute at the Close of Evidence

- 8.242 There is no dispute that the proposals comply with a wide range of development plan policies, including those relating to surface access, air quality, the delivery of employment, skills and socio-economic benefits, and energy. In particular, the amendments would deliver substantial economic benefits, both in the local study area where there are high levels of

¹⁷² CD1.19

¹⁷³ Sean Bashforth, PoE, Appendix 3

¹⁷⁴ When weighed against the 'not significant' adverse effects from noise.

deprivation, and on a London wide level. This accords with development plan policy supporting the delivery of employment and economic growth in the Riverside and Beckton OA in particular. The extent to which there is agreed compliance with these policies is relevant to determining whether it is in compliance with the development plan taken as a whole.

Legal and Policy Framework

- 8.243 The effect of section 38(6) of the PCPA 2004 is that the application for the Proposed Amendments must be determined in accordance with the development plan unless material considerations indicate otherwise. It is now well established that "*... the duty can only be properly performed if the decision-maker, in the course of making the decision, establishes whether or not the proposal accords with the development plan as a whole.*" (emphasis added).¹⁷⁵

Policy T8

- 8.244 The only parts of policy T8 that are in dispute are parts B and E. It is agreed that the amendments comply with parts A and F, which support the role of airports serving London in enhancing the city's spatial growth and making better use of existing airport capacity. There is no dispute that there is no breach of parts C and G, which relate to surface access. Parts C, H and I do not apply to the proposals.¹⁷⁶
- 8.245 With regards to part B, the environmental and health impacts of the amendments have been fully acknowledged and appropriate mitigation has been provided. The ES provides a full account of the likely significant environmental impacts using standard noise metrics and supplementary metrics. The ES concludes that all changes in daytime and weekend air noise levels are forecast to be negligible and therefore not significant in EIA terms. The proposals would result in night-time noise increases for a limited number of properties above the SOAEL, but these properties are already within LCY's SIS. There is no dispute that the reference to mitigating environmental effects corresponds to the requirements in the NPSE insofar as it relates to noise. There is also no dispute that the proposals comply with the NPSE, such that there is also compliance with this part of policy T8.
- 8.246 With regards to the reference to demonstrating overriding public interest if required, the meaning of the policy is not entirely clear. LCY's position is that there is no such requirement in the present case, as the amendments would not give rise to significant adverse environmental effects. Even if there was such a 'requirement', however, there is clearly an 'overriding public interest' in granting planning permission for the proposals as clear from the need for the amendments, as supported by national aviation policy, the many socio-economic and consumer benefits and, indeed, overall noise benefits identified

¹⁷⁵ *BDW Trading Ltd (t/a David Wilson Homes (Central, Mercia and West Midlands)) v Secretary of State* [2015] EWHC 886 at [21].

¹⁷⁶ There was some debate as to the applicability of part H, which relates to "general and business aviation". This term is defined in Annex 2 of the LP (CD3.3.1). The proposal does not relate to such activity.

above.

- 8.247 With regards to part E, the proposals have been shaped by consultation with stakeholders, including local residents, which is reflected in LCY's decision to limit the extended operating hours on Saturdays to the minimum necessary to achieve the objectives of meeting demand and incentivising re-fleeting. The fact that there are objections to a proposed development does not itself render that development unacceptable. It is necessary to consider the scope of those objections in the context of the assessment of effects. Insofar as this part requires "*full account*" to be taken of environmental impacts, LCY considers that this is met by the comprehensive assessment of effects in the ES.

Policy D13

- 8.248 Policy D13 seeks to strike a balance between noise generating development and the amenity of those nearby. However, it also requires that development should be designed to ensure that established noise and other nuisance-generating uses remain viable and can continue or grow without unreasonable restrictions being placed on them.
- 8.249 The noise impacts would be managed and mitigated. The significant enhancement to the scope and effectiveness of LCY's residential SIS and would result in residents qualifying at a lower noise threshold in the intermediate tier and entitle more residents to receive the full cost for full treatment to their homes, undertaken by LCY's contractors. As set out above, there is no dispute that the proposed mitigation complies with the NPSE.

Policies SP2 and SP8

- 8.250 Policies SP2 and SP8 of the NLP encourage the reduction in health inequalities and the creation of healthy neighbourhoods and developments. Part (a)(iii) of policy SP2 recognises the importance of improving employment and reducing poverty, while attending the environmental impacts of economic development, including noise. Policy SP8 requires development to achieve good neighbourliness by avoiding negative impacts (including unacceptable exposure to noise) and maximising positive social, environmental and design impacts for neighbours.
- 8.251 The amendments would deliver 'neighbourly development' by reducing the overall noise at the Airport, as a result of accelerating the process of re-fleeting, and avoiding any significant adverse effects. Furthermore, the proposals would result in a significant beneficial population health impact through the delivery of additional employment, which is recognised as a key part of ensuring healthy neighbourhoods.

Compliance with Development Plan Policy

- 8.252 Considering the above policies together, alongside those with which there is agreed to be compliance, the Proposed Amendments clearly accord with the development plan taken as a whole. The scale of the economic benefits, which are not disputed by LBN, and the national policy support for making best use of existing airport infrastructure, also weigh in favour of the grant of

planning permission. There are, therefore, no material considerations indicating that the appeal should be determined other than in accordance with the development plan.

- 8.253 However, even if the Proposed Amendments did not accord with those policies identified in the reason for refusal, LCY's case is that any such conflict would be outweighed by other material considerations indicating that planning permission should be granted. In particular, and in addition to the benefits identified above the amendments:
- a. Are consistent with up to date national aviation policy in MBU and Fttf, which supports the principle of growth through making the best use of existing infrastructure.
 - b. Incentivise airlines to accelerate their re-fleeting to newer aircraft with materially better environmental performance by only allowing new generation to be used in the additional Saturday operating period and early morning slots.
 - c. Share the noise benefits from fleet modernisation with the community through the reduction of the 57dB $L_{Aeq,16h}$ noise contour by 20% to 7.2km² and reducing overall aircraft noise throughout the week.
 - d. Provide commitments in the CCCAP and revised energy strategy to reduce Scope 1 and 2 emissions and to respond to the targets in the Jet Zero Strategy for airport operations.
 - e. Allow growth consistent with the Government's JZS trajectory and its carbon budgets and 2050 'net zero' target.
 - f. Commit to targets to achieve an 80% passenger sustainable transport mode share target (up from 75%) and other improvements backed up by a Sustainable Transport Fund to deliver infrastructure and other improvements.

Conclusions

- 8.254 The scope of the objection to the Proposed Amendments is exceedingly narrow. By the close of the evidence, LBN's objection relates solely to the impacts on amenity arising from the operations on Saturday afternoons. There is no dispute that the 'technical' evidence indicates that these operations would have no significant noise effects. LBN invites the SoS to depart from the conclusion in the ES in order to reach a 'value judgment' as to the significance of those effects.
- 8.255 LCY's case rests principally on the assessment of those effects in the ES. Any impacts on amenity arising from Saturday afternoons must be considered in the context of a reduction in total noise effects and the enhanced noise mitigation. The real noise benefits that the proposals would deliver are inextricably linked to Saturday afternoon operations.
- 8.256 Standing back, the environmental effects are incredibly modest. These are to be weighed against the substantial socio-economic benefits that would be delivered. The proposals represent an opportunity to make best use of the Airport's existing infrastructure, whilst delivering real world benefits for real people; opportunities for skills training, jobs, the chance to travel, increased economic activity in their local area, and further investment in the place that they live and work.

- 8.257 These benefits reflect key Government objectives for 'levelling up' areas of deprivation, strengthening international connectivity and supporting the role of airports as engines of economic growth.
- 8.258 On balance, therefore, it is LCY's case that this appeal should be allowed and planning permission granted.

9. THE CASE FOR LONDON BOROUGH OF NEWHAM

- 9.1 The starting point is the legislation which, of course, provides the basis on which the SoS will have to determine this matter. This is a s73 application and the section reveals what is to be done to determine the matter.
- 9.2 S73 of the TCPA 1990¹⁷⁷ enables an application to be made where the only question to be considered is whether the condition or conditions to which the original permission is subject should remain. If the decision maker decides the conditions should remain as originally granted, then the application is to be refused. If the conditions are to be altered, then a new permission is granted.
- 9.3 The preceding paragraph or, more particularly, s73(2)(a), makes plain that the SoS can leave in place condition 17, as numbered on the existing permission, which protects amenity while changing one or other of the other conditions. This was the subject of limited discussion, under the label split decision. The response from LCY was unnecessarily complicated and made without reference to the relevant legislative provision.
- 9.4 In reflecting upon it one can have in mind that LCY's Need/Socio-economics witness told the Inquiry that LCY could reach 8.8mppa. Further, LBN's Need witness, in a reasoned approach described how LCY could reach 9mppa without extending operating hours.¹⁷⁸ This was not challenged by LCY. LBN's Need witness explained in evidence in chief how this, i.e., 9mppa, could be achieved within the existing hourly movement capacity of 45. These are plainly important pieces of information, which if acted upon will, or will substantially, produce the benefits sought by LCY without the loss of protection of amenity, which protection was given by the SoS.
- 9.5 The original permission, in any scenario, remains in place. If a new permission is granted there is a choice available as to implementation.
- 9.6 Accordingly, on a s73 application one starts with the existing permission and, particularly, the conditions. The reason why there is an environmental assessment on a s73 application is because, if granted, a new permission comes into being and the law requires, for development consents¹⁷⁹ having significant environmental consequences.¹⁸⁰

¹⁷⁷ CD3.1.1

¹⁷⁸ Chris Smith Rebuttal, page 7, para 1.23 and table 1.1

¹⁷⁹ The statutory text refers to s73 applications as applications for planning permission for the development of land without complying with conditions: s73(2). The development must be new because for old development one already has or had permission. Further, s73 uses the expression 'development'.

¹⁸⁰ Obviously, even if one reflects solely on the condition there are significant environmental effects here, viz the noise.

A particular type of planning application

- 9.7 Thus, one is determining a particular type of planning application that requires only consideration of conditions, but which is, none the less, an application for planning permission. Section 70(2) tells us what one is obliged to consider on such a determination. However, s38(6) of the Planning and Compulsory Purchase Act 2004¹⁸¹ tells us that when regard is to be had to the development plan on an application the determination is to be made in accordance with the development plan unless material considerations indicate otherwise.
- 9.8 Section 38(6) is obviously not the starting point. One starts with s73 and considers only conditions, then has in mind s70(2) which requires that in dealing with the application one has regard to the provisions of the development plan so far as material to the application, i.e., the application in respect of conditions, and any other material considerations.
- 9.9 None of this is to say the development plan, a statutorily defined set of documents, is unimportant. But it is to say (as the legislation requires) that one has regard to the development plan so far as material to the application. The application relates particularly to a condition as to noise,¹⁸² which if changed, as the LCY seek, would introduce noise¹⁸³ 'as plain as a pikestaff' into a temporal period highly valued and considered necessary to be protected from noise for the future by the SoS in 2016.
- 9.10 LBN asserts that there are clear breaches of the development plan, which would be highly material in the consideration by the SoS. But we are considering the development plan so far as material to the application in respect of the proposed discard of a condition, which protects amenity by precluding noise, which would otherwise be seriously deleterious. Consequently, we should keep clearly in mind what the TCPA requires to be done, which is to consider only the question of conditions. It is necessary to determine whether, in effect, the extant planning permission should be left in place by itself or be supplemented by another permission which could, of course, repeat existing condition 17, viewed by the SoS as necessary to protect amenity. We are not asked to consider whether the Airport is a good thing. But we can note that tourism (into the UK) is a highly prized export, being the sale of a service for foreign currency. The same is not true of UK holiday makers going abroad.

A vital material consideration

- 9.11 The existing CAPD1 permission is a vital material consideration. Even before s73 was introduced, an existing planning permission was a vitally material consideration on a later application. Thus, it must be accepted that very substantial weight is to be given to the extant CADP1 permission. That extant

¹⁸¹ CD3.1.2

¹⁸² It is clear that noise is particularly significant in the planning regime generally and airport planning in particular. Noise is capable of being seriously deleterious to health and quality of living.

¹⁸³ Rupert Thornley-Taylor PoE

planning permission was not an idle exercise but a mature consideration against a definite legal framework, which has not changed.

- 9.12 It should be noted that the CADP1 permission was clearly intended by the SoS to be something that would persist for a significant period of time. First, the permission, as a matter of law, enures for the benefit of the land and of all persons for the time being interested in it. Second, the application on which the CADP1 permission was granted made plain that it was a long-term matter.¹⁸⁴ Third, the CADP1 permission was designed to secure the optimum capacity of LCY, fulfil its potential and make best use of the Airport with larger aircraft being inevitable.
- 9.13 The relevant text of s73 is that the section applies to applications for planning permission without complying with conditions subject to which a previous planning permission was granted. Thus, the applicant is asking to be excused from compliance from a condition imposed in the public interest as being necessary to meet a planning purpose. The law is absolutely clear; planning is an exercise in the public interest (not private interest such as easing a commercial position) and that conditions must be reasonable, necessary and serve a planning purpose. This accords those points a higher status than planning practice, although planning practice demands the same.

Public information and the planning register

- 9.14 A register of planning decisions is required to be maintained by local planning authorities. The documents are public documents. The TCPA, by s69 and s69A, requires there to be a register of applications and regulations require that register to contain the relevant documents. They would also be available through other sources.
- 9.15 It is absurd of LCY to suggest that the Airport Master Plan,¹⁸⁵ viewed negatively by the local planning authority, produced by a business, having no statutory or planning status whatsoever, can be taken by those considering property in or near the Airport as a kind of substitute for official documents, lawfully prepared and lawfully and publicly registered. It is to be noted that the document relied upon was viewed with disapprobation by LBN.
- 9.16 Thus, there is no scope for LCY to rely on population growth either as supporting a proposition that people have arrived in the knowledge of the Airport and therefore have to accept Saturday afternoon noise or that they have arrived anxious to fly from the Airport on Saturday afternoons.
- 9.17 This matter has a further significance. Thus, beyond precluding certain arguments from LCY it reveals the profound impact that planning decisions have on an area and its character.
- 9.18 LBN's noise witness, whose experience, expertise and authoritative status LBN argues are all unchallenged and unchallengeable, stated that LCY had never had Saturday afternoon or Sunday morning flights so that the character of the area, confirmed by the (public) planning regime, is clear.

¹⁸⁴ INQ17, page 2, para 4.

¹⁸⁵ CD5.1

Saturday afternoons, evenings and Sunday mornings are a time of respite, curfew, or relief or as the appropriate term may be.

Approach to the SOS Decision (the CADP1 permission)

- 9.19 The SoS had decided to grant conditional planning permission for a very substantial development. The development is set out at paragraph 27 of the letter of 29 July 2016 and runs from (a) to (q). It included demolition, aircraft stands (both upgraded and new), modification of the airfield and the creation of a taxi lane, extended terminal building and significantly more besides. As a matter of fact, some of this development has yet to be carried out. LBN argue that this agreed fact makes it even more bizarre to hear it asserted that an incomer should have assumed what the LCY now put forward as their plans, which in so far as they want to remove amenity protection depend on another planning permission being granted.
- 9.20 A person reading the CADP1 permission would also see that the SoS gave consideration to the Inspector's analysis of conditions and the reasons for them. It can be noted that the SoS were satisfied that the conditions recommended by the Inspector complied with policy. They imposed those conditions. Those conditions had to be necessary and serve a planning purpose.
- 9.21 The conditions on the CADP1 permission had been agreed and the Inspector said the conditions were reasonable and necessary.¹⁸⁶ It is noted that, by reading condition 17, weekend relief was both reasonable and necessary to protect the amenity of current and future occupants. When the SoS refer to future occupants did that future merely embrace a year or two? The answer is obviously no, for a planning permission persists in perpetuity.
- 9.22 As a matter of law, a condition can only be imposed if both necessary and serving a planning purpose. LBN states that no one from LCY appears to have thought about this. No suggestion has been made let alone evidence tendered to suggest that the conditions imposed had ceased either to serve a planning purpose or to be necessary.
- 9.23 It is immediately apparent that LCY pursued a 'need' case before the Inspector and the SoS. Thus, the Inspector, in reporting LCY's case said (it was that) 'demand forecasts show a substantial and pressing need for [certain] capacity constraints to be overcome if the Airport is to deliver its potential'. LCY also stated that the development, that found expression in the CADP1 permission, generated socio-economic benefits such as employment.
- 9.24 The report made by the Inspector of the case for LCY accurately reflected the material, including the environmental statement, put before the Inquiry by LCY. Thus, the need statement, which was a core document before the Inspector, said it demonstrated that the proposal would be consistent with Government policy in securing better runway use. It was stated in bold type that this was particularly so in the context of how best to secure airport capacity in the short, medium and long term. The proposal was said to allow LCY to reach its optimum potential.

¹⁸⁶ CD7.8, at paras 4 (page 1), 23 (page 4), & 27 (page 5)

- 9.25 This need statement has never been disowned. It can be noted that LCY's witness agreed that the policy substance was the same in 2016 as it is today. It should be noted that the approval in 2016 was sought to allow a potential of 120,000 noise factored movements per annum.¹⁸⁷ This appears to be equivalent to 111,000 ATMs, which, of course, is what LCY have secured through the CADP1 permission but have yet to reach.

Threads to draw together

- 9.26 LCY was seen, as it is, as unique and that its optimum potential is 111,000 ATMs.¹⁸⁸ Further, that it was (and is) the case that 111,000 ATMs can be achieved through the permitted flying hours, the bulk of which are on Mondays to Fridays. Furthermore, the SoS determined that a condition to protect amenity by precluding aircraft noise from LCY for 24 hours, i.e. 1230hrs Saturday to 1230hrs Sunday, was necessary and reasonable.
- 9.27 LCY sought to say that Saturday afternoons were no different from other afternoons. LCY's noise witness said that the end position, after all his work on the numbers, was that Saturday afternoons, if LCY succeed, would be more or less the same as other afternoons.
- 9.28 This proposition that there is little material difference in respect of noise between Saturday afternoons as proposed and weekdays as permitted, is a very interesting answer. We know that in 2016 the SoS would have been alive to the fact that all other London airports had Saturday flying. They would also have known that if Saturday flying occurred at the Airport it would be little different in respect of noise from Monday to Friday. The SoS knew in 2016 that good use¹⁸⁹ should be made of the runway at the Airport.
- 9.29 None the less the SoS deliberately said that Saturdays would be different and that such difference related to both the evening and the afternoon.
- 9.30 This deliberate decision by the SoS must be recognised and respected. It is vitally material to the consideration of this appeal. Moreover, it has clearly been proved to be a wise decision. The heartfelt evidence about Saturdays and the ability to do things on Saturdays can be brought back to mind. One cannot readily forget the evidence of interested parties,¹⁹⁰ which evidence can be taken as representative. We can also have in mind that one quarter of all the local authorities¹⁹¹ across Greater London have objected to the loss of the protection from noise on Saturdays. They are well able to respond to the concerns of their population.

¹⁸⁷ INQ17, page 2, para 4

¹⁸⁸ INQ17, page 2, para 4

¹⁸⁹ This expression is used to avoid choosing between best and better use. The concept is clearly that one should use a runway to take advantage of it in its location so that one does not waste the facility. This is obviously different from a suggestion that best or better use requires a continuous parade of aircraft 7 days a week. Best use is made of the cricket square at Lord's but play does not occur every day.

¹⁹⁰ INQ27 & INQ28

¹⁹¹ 8 local authorities responding in the way they did is remarkable for a development in the London Borough of Newham.

- 9.31 The response of LCY appears to be that people complain and, anyway, people can get habituated to noise. In re-examination on day 9 it was suggested to LCY's noise witness, and he adopted the suggestion that there were, in any event, other noise sources on a Saturday. Assuming such to be the case one can note the question, which should have been but was not asked, were the SoS and their Inspector alive in 2016 to the propositions that people complain, get habituated to noise and that in around the Docklands and underneath the flight paths there were on Saturdays other sources of noise? Plainly, the Inspector and the SoS would have been so aware, but they still said Saturdays are and would be different. They said it was necessary to protect amenity.

The CADP1 permission

- 9.32 The CADP1 permission plainly enabled the Airport to operate in the 21st Century. It is apparent that there were infrastructure requirements¹⁹² and these requirements enabled the Airport to operate as such. The physical requirements were described by LCY as being needed to fulfil its potential.¹⁹³ Further, an economic rationale was advanced.¹⁹⁴
- 9.33 The SoS did not describe¹⁹⁵ these matters as 'need.' The SoS weighed environmental impacts against benefits, which included allowing LCY to increase its flights within its permitted level and increase in the likelihood of more efficient aircraft. It can here be noted that in re-examination LCY's noise witness said, despite having in cross examination maintained that any question of need was for another, that the socio-economic benefits in this case are greater than in 2016. This is nonsense. Compare and contrast the Need Case in 2016 with the Need Case in 2024. The former can be taken from the Inspector's report at paragraphs 94 and 95. They were put by LCY (through the Need witness) as physical capacity constraints needed to be met for LCY to reach its potential. Further, in respect of other benefits compare and contrast chapter 5 of the (still extant) need statement produced and relied upon for the 2016 decision with current suggested benefits.¹⁹⁶

LCY's Need Case

- 9.34 The 'need' case at the moment is made up of these matters (1) LCY would like to have Saturday 1230 to 1830 flights; no doubt that would increase its value to its owners but there is no maintainable suggestion that LCY needs Saturday afternoons to survive; (2) an airline would like to have Saturday 1230-1830 flights but there is no maintainable suggestion that the airline or any airline would cease to use LCY if the condition imposed by the SoS were sustained; (3) prospective passengers do not have the possibility of Saturday 1230-1830 flights. Added to these matters is the proposition that if Saturday

¹⁹² INQ17, page 3 Figure 1

¹⁹³ INQ17, page 5, para 1.4

¹⁹⁴ Ibid page 4, para 10

¹⁹⁵ CD7.8, page 26

¹⁹⁶ Remembering to take care to avoid counting benefits attributable to 2016 as attributable to 2024.

flights are granted it would incentivise airlines to move to larger quieter aircraft.¹⁹⁷

- 9.35 Further, LCY's planning witness repeatedly said that although he was not an expert Saturday afternoon opening assisted rotational use of aircraft. It was not explained why the current (large number of) unused Monday to Friday slots did not enable rotational activity. Manifestly, such slots could be used for that purpose.

Business case or benefits for some

- 9.36 Need, which word was not used by the SoS in 2016,¹⁹⁸ is clearly the wrong word to use. It is merely corroborative detail, intended to give artistic verisimilitude to an otherwise bald and unconvincing narrative. The matters advanced are, at best, benefits for some persons, such word here includes legal persons, such as the LCY a body corporate owned by its shareholders and the airline (relied upon) also a body corporate owned by its shareholders. These benefits, such as they are, which are not much, are clearly outweighed by other considerations. However, let us consider these suggested benefits and, in doing so, consider matters to whose existence they do not contribute in the slightest.
- 9.37 They are not necessary for the continuation of the Airport. First, there is no sensible suggestion by LCY that such is the case. Second, there is no evidence that such is the case. Third, there is an extant permission which according to LCY secured the full potential of the Airport.¹⁹⁹ LCY's case in the CADP1 Inspector's report made clear that the then desired permission enabled the Airport to deliver its potential. This reflected the need statement, which has never been withdrawn, and was part of the environmental statement, which had to be prepared in a particular way so the public could rely upon it. This document made plain,²⁰⁰ that permitting, what became the 2016 permission, would allow the Airport to reach its optimum potential. The same document, prepared (and in effect verified by LCY) said the aim was to make full use of the consented runway movement limit... ensuring it makes 'better use' of the runway.²⁰¹
- 9.38 The benefits are not necessary for the continuation of any airline, whether the one cited by LCY or at all. (Parenthetically, it is not understood why the planning system, which operates in the public interest, should be used to aid the economic performance of an airline or any airline). First, the benefits identified are not necessary for the viability of or continuation of any airline. This is not so suggested and there is no evidence to that effect. Second, in any event it is undisputed but that there are plenty of slots on every day that LCY operates, which could be taken up by airlines if they chose to do so.

¹⁹⁷ This was said before by LCY in 2016 at the Inquiry, see CD 7.8, Inspector's report at para 142, page 38. The derivation of the incentivisation put forward was evidence from the noise expert for LCY. The relevant extract from the list of documents is at page 99 of the Inspector's report. Ms Congdon had also stated (see INQ17 at page 59, para 4.11) that the shift to larger aircraft was inevitable.

¹⁹⁸ CD7.8, page 5, para 26

¹⁹⁹ CD7.8, page 26, para 95

²⁰⁰ INQ17, page 2, para 4

²⁰¹ Ibid, page 11, para 2.12

- 9.39 LBN's witness pointed out that the difference per aircraft would be a financial improvement of £196,191 per annum for the airline's shareholders at the expense of Saturday afternoon disturbance.²⁰²
- 9.40 Accordingly, a simple desire by LCY to have Saturday afternoons is a matter of no planning consequence save to say that to meet that desire would undermine a matter seen by the SoS as necessary for a planning purpose, i.e., the condition which secures no aircraft movement between Saturday 1230 and Sunday 1230. Further, the desire of an airline or airlines to operate during part of that time is a matter of no planning consequence save to say that to meet the desire would undermine a matter seen by the SoS as necessary for a planning purpose.
- 9.41 This leaves the third supposed benefit namely meeting the desire of those living within the catchment area of the Airport to travel on a Saturday afternoon to or from destinations not now serviced during the rest of the week from the Airport. LCY's Need witness, when asked how this had been itemised or determined said (repeatedly) that this is what the airline said. The letter²⁰³ replied upon had no identifiable provenance, yet was heavily relied upon for a multitude of matters. The author of the letter did not present himself to the Inquiry (unlike those who gave vivid evidence about noise and its deleterious effect).
- 9.42 There are a number of difficulties with this supposed benefit. It is predicated on the proposition that the leisure travellers in question would only take off or land on a Saturday afternoon. This only has to be stated to be shown to be nonsense and, in any event, is contradicted by the evidence of LCY who maintained, although not to very good effect, that one could not and should not distinguish between any weekday and Saturday. LCY's noise witness was keen on this proposition despite having said that Saturday evenings were important to protect and that the amenity being then protected was the same amenity protected by the SoS from 1230 to 2230 on Saturdays.
- 9.43 There is no material whatsoever to support the proposition that there exist putative Saturday afternoon only travellers. If there were why should something viewed as necessary to protect amenity be removed to accommodate the person who says '*I will not travel by air at any time other than Saturday 1230 to 1830 and furthermore I will not travel from any airport other than LCY (despite the proximity of the Elizabeth line and cheaper fares elsewhere)*'? It is LBN's position that LCY are clutching at straws.
- 9.44 It can be accepted as realistic that there are people in and around the Airport who would like, from time to time, to go on holiday. It can be accepted that some such people may view the present leisure destinations furnished by LCY with disdain and distaste but who would not view other destinations in such a light. We know remarkably little about these people because LCY have not produced any material bar the assertion, per it's need witness, that the airline has said so. It can be accepted that some such people may find it more

²⁰² Chris Smith Rebuttal, page 6, para 1.21

²⁰³ Louise Congdon PoE, Appendix 1

convenient to get to LCY than (for example) to take the Elizabeth line to Heathrow.

- 9.45 The previous paragraph is, because it has to be, devoid of numbers, none has been provided by LCY or its favoured airline. However, we do know that there are multiple slots available every weekday Monday to Friday. If there are leisure travellers, in and around the Airport, falling into one or other of the groups mentioned in the preceding paragraph then an airline could simply take one of the slots and fly to the new beach or leisure destination.
- 9.46 The fact this has not happened tells us a great deal. It tells us that this supposed benefit or desire for leisure has not been sufficient to be responded to by LCY or any airline. It tells us that LCY want the benefit of further potential utilisation of the Airport even though the local market does not generate that utilisation on a Monday to Friday. It must be remembered that there is an obvious pecuniary advantage to LCY, whether on a prospective sale or otherwise, in having secured release from the SoS condition.
- 9.47 It tells us, in short, that the supposed benefit of this application, as a response to desired local leisure travel, is illusory.

Approach to forecasts

- 9.48 The forecasts put forward by LCY are curious. They were presented in a self-serving way and were, to a considerable degree, based on propositions that are plainly wrong. The worst offender was the proposition that the elasticity on which the forecasts were based, prepared on material that pre-dated 2020 or any reference to COVID-19, none the less took account of COVID-19 and any effects that had on the way people operate. In this regard LCY's evidence was wholly unrealistic as to changes in business practice.
- 9.49 It should also be in mind that the forecasts depend on a variety of factors including gross domestic product. The approach of LCY appears unduly optimistic.
- 9.50 The evidence of LBN's need witness should be carefully considered. He was condemned by LCY for giving his opinion.²⁰⁴ However, that is what he was asked to do: offer an independent expert opinion. He did so without being beholden to anyone or any previous set of documents. He drew attention to clear risks in the forecasts and drew attention to deficiencies in the position of LCY. The fact he indicated that an approach could be followed does not undermine but rather emphasise his cautionary observations.
- 9.51 It is next necessary to enquire whether the supposed incentivisation of larger quieter aircraft materially aids the position of LCY. It is clear it does not. First, it has all been said before. Second, inevitably, quieter aircraft would come forward for economic reasons.
- 9.52 Accordingly, the benefits or asserted Need Case for LCY is hopeless.

²⁰⁴ Louise Congdon Rebuttal

Noise

- 9.53 This matter can be approached very straightforwardly as there are agreed, unchallenged or unchallengeable propositions. The basic and agreed propositions are that noise is important, noise can cause a serious loss of amenity and the noise referable to the application is 'as plain as a pikestaff.'
- 9.54 Further, there is a distinct amenity which is necessary to protect. This derives from the extant CADP1 permission and the decision of the SoS.
- 9.55 Second, the noise on a Saturday afternoon should not mimic the noise on a Monday to Friday. This also derives from that decision but is reinforced by (amongst other things) the Statement of Community Involvement (SCI),²⁰⁵ evidence to the Inquiry, representations to the local planning authority and general public that Saturday afternoons are different from Monday to Friday afternoons.
- 9.56 Third, the evidence from LCY is that the amenity post 1830 on a Saturday is important to protect and that the amenity being protected between 1230 and 1830 is no different save that such amenity is more likely to have hours of daylight. Although people have a propensity to be indoors, or so it is said by LCY, there is a greater likelihood of being out of doors during hours of daylight. LCY called no social scientist but made sweeping observations about the behavioural habits of the resident population.
- 9.57 There is no need to worry unduly about the figures produced in the ES or by LCY's noise witness. It is agreed that the Saturday noise would be similar to the noise on Mondays to Fridays and unchallenged but that it would be 'as plain as a pikestaff.' And we know that such a level of noise is, according to LCY, important to be prevented on Saturday evenings. Further, we know that such noise causes disturbance.
- 9.58 In respect of the effect of noise, the evidence of LBN's noise witness is preferred. It was peculiarly refreshing to hear an expert say, as all experts ought to say, "*I am here to give my advice in accordance with my expertise.*" It is not for me to advise let alone tell a decision maker how she should weigh the various factors, some of which would not involve my area of expertise'. This can be contrasted with the evidence of LCY. The benefits evidence should simply have said these are the benefits and the noise evidence should simply say this is the noise. The evidence gets muddled if it departs from that dynamic. This was shown vividly in the evidence of LCY's noise witness when he was trying to justify why one deserved protection from noise at, e.g. 1830 but not at 1800. This muddle was even more pronounced when trying to justify protection when we have Greenwich Mean Time but not when we have British Summer Time; an hour which is protected one week is not protected the next week (even though it is lighter, and one is more likely to be out of doors).
- 9.59 Further, it is agreed that there is no metric capable of providing advice. This was said by LCY to be why something else had been done. However, that something else is a 16-hour approach based on existing aircraft noise in order

²⁰⁵ CD1.06

to consider a 6-hour period where there is no aircraft noise. The solution does not relate to the problem.

- 9.60 It is worth making an incidental observation about sleep deprivation. LBN has made plain that the ES finds that in several locations there are increases of up to 2dB in summer $L_{Aeq,8h}$ which, if there is no major seasonal variation is equivalent to L_{night} , but the additional population which is likely to be highly sleep disturbed is not reported. The research which led to these figures did not take into account whether or not the residents studied had sound insulation installed in their homes. If that were taken into account, the percentage highly sleep disturbed could be less than reported in the WHO ENG.²⁰⁶ LCY's noise witness gave the surprising answer in re-examination that if all dwellings had sound insulation there would be zero sleep disturbance, although that proposition was not in his written evidence. If such were the case the Government's continuing efforts to reduce night noise arising from airports would seem somewhat superfluous.
- 9.61 The critical point is that the research did not take into account whether residents had sound insulation. The answer that comes back from LCY is to the effect that if everybody has sound insulation all would be well. And LBN agrees that if such is the case and all are using (functioning) sound insulation this particular aspect of the harm caused by the proposal is lessened or avoided. However, we all know the world is not perfect, that some would not have sound insulation, that some would have it, but it would not work perfectly or some would have it but still want an open window.
- 9.62 Accordingly, the SoS should conclude that the early morning noise would be increased so that it consists of 6 flights of any description of aircraft and 3 flights of newer (and one hopes quieter) aircraft rendering it probable (given the improbability of all having sound insulation) that there would be sleep disturbance.
- 9.63 Further, the SoS should also conclude that there would intrusive noise seriously adversely affecting amenity on Saturday afternoons. This noise can properly be described 'as plain as a pikestaff.'

Planning policies

- 9.64 The question of planning, which is linked to the balancing exercise being performed, is the next step. The critical point to draw from planning policy is the great weight given by policy to two propositions. First, that aircraft noise is a matter of great seriousness within development plan policies. This is not a surprise as planning control is the principal mechanism for minimising or precluding aircraft noise, which noise, can be seriously deleterious to health or quality of life. Second, that development plan policies recognise the amenity damage caused by such noise leading to the desirability of avoiding or precluding such noise.
- 9.65 The development plan policies mentioned in the reason for refusal are D13 and T8 of the London Plan and SP2 and SP8 of the Newham Local Plan. Each is dealt with in sequence.

²⁰⁶ Rupert Thornley-Taylor's PoE, page 36, 7.2.13

- 9.66 Policy D13²⁰⁷ is the agent of change point. This policy is plainly intended to deal with the common law principle that coming to a nuisance is no defence. In other words, if I build my house next to a factory and then sue the factory for nuisance the factory cannot defend on the basis it was built first. Thus, and inevitably the policy distinguishes between existing noise and new noise.
- 9.67 It is obvious that the Inquiry is concerned with new noise. It is absurd to say that because there is noise on Saturday morning and you need planning permission to make noise on Saturday afternoon then the noise on Saturday afternoon is existing noise. Are we to tell the SoS who considered the matter so carefully in 2016 that notwithstanding their care in precluding noise they are to be taken as having created existing noise? What is the point of seeking planning permission? What is the point of the planning register? What is the point of LCY saying and seeking permission on the basis that the optimum use is 111,000 ATMs Monday to Friday with Saturday mornings and Sundays after 1230?
- 9.68 This is new noise. You can test that by asking what would happen if LCY broke the condition. Would they be able to defend a breach of condition notice on the basis the noise was existing noise? It is LBN's position that the District Judge would not accept that argument.
- 9.69 Clearly policies D13(c) and D13(e) are relevant. Policy D13(c) says that new noise and other nuisance-generating development proposed close to residential and other noise-sensitive uses should put in place measures to mitigate and manage any noise impacts for neighbouring residents and businesses. Noise is categorised as a nuisance. Certain questions need to be asked in considering whether policy D13 has been breached.
- 9.70 Has it been clearly demonstrated that the development proposal would mitigate and manage the noise? The answer is plainly no. The concern relates to noise in the afternoon. When asked about funding for outdoor facilities LCY have to say that those using the facilities would still hear the noise. Further, there is no recognised means of assessment.
- 9.71 Further, the amendment to the proposal by the LCY is predicated on the noise on a Saturday evening being significantly deleterious. This is the same noise which is proposed to be introduced, contrary to the SoS decision for the CADP1 permission in 2016, for Saturday afternoon. The amenity to be protected in the time before the proposed condition takes effect is more noticeable given it is during daylight.
- 9.72 It should be noted that by Policy D13(e) one should not normally permit development proposals that have not clearly demonstrated how noise and other nuisances would be mitigated and managed. Given that such is the case here, refusal is indicated.
- 9.73 Policy T8²⁰⁸ is conspicuously breached. It is the policy of the LP that deals with aviation. In considering the weight to be given to this policy please bear in mind that this plan went through a long Inquiry process with several inspectors and had to gain the approval of the SoS who had the power to

²⁰⁷ CD3.1.1, page 150-151

²⁰⁸ CD3.1.1, page 438

delay or stop it. Plainly, this proposal is for airport expansion, whether or not one has in mind that the CADP1 permission constituted optimum capacity.²⁰⁹ It follows there should be an overriding public interest or no suitable alternative solution.²¹⁰ This, the overriding public interest, is said by LCY to be those commercial benefits to the Airport and the airline and such socio-economic benefits as can be derived from this application if permitted and are additional to those derived from the CADP1 permission.

- 9.74 Policy T8 has, of course, to be read and considered as a whole. It is never appropriate to pick out a little from a text and assert it represents the whole. Naturally, one reads the policy in the context of the London Plan as a whole taking account of any words that are glossed in the plan. It is an elementary legal error to suggest that a definition in another document is carried into the document one is considering.
- 9.75 Policy T8(h) helps us realise how seriously noise is viewed. It can be recognised that the first sentence, in the light of the glossary is at least principally dealing with something different from the proposal here pursued but it helps us recognise the care that is needed before there are changes in circumstances which generate environmental harm. It is perfectly clear that such harm does here exist. This is expressly acknowledged by LCY through their evidence about the importance of the proposed condition and their bringing forward just under £4 million, an amount that would not be brought forward unless something significant was taking place, to help outdoor leisure areas even though it is acknowledged by LCY that such help does not preclude the noise from being heard.
- 9.76 However, Policy T8 (h) consists of two distinct and separate sentences, each of which in the ordinary way carries its natural meaning. The second sentence says any significant shift in the mix of operations using an airport, for example, the introduction of scheduled flights at airports not generally offering such flights, should be refused. Please notice this policy refers to "any". That is the word used, significant shift in the mix of operations at an (the indefinite article is used), airport.
- 9.77 The Airport is clearly an airport, which proposes significantly to shift operations to include in its mix Saturday afternoon flights.
- 9.78 Consequently, policy T8(h) is important on two counts. First, because it directly suggests refusal and, second, because it shows the significance of aircraft noise. Thus, there are clear breaches of the LP.
- 9.79 The NLP²¹¹ has at SP2 a policy supporting the need for certain types of facilities. Noise would be deleterious. Policy SP2 indicates what is needed. This includes attending to environmental impacts such as noise. Are we seriously to say that attending to environmental impacts secures allowing noise, as plain as a pikestaff, where hitherto such noise has been precluded?
- 9.80 Policy SP8 seeks to ensure neighbourly development, which this is not. SP8 reveals an expectation that development avoids negative environmental

²⁰⁹ INQ17

²¹⁰ LP Policy T8(b)

²¹¹ CD3.4.1

impacts, which obviously includes noise. Is it neighbourly to overfly people on a Saturday afternoon? Is it avoiding negative environmental impacts to do so? Obviously not.

Further threads

- 9.81 Accordingly, LBN can draw further threads together. We have seen that the Need Case is hopeless and that the best that can be said about the benefits case is that it is overstated. The noise case reveals intrusive noise against which there should be protection and the planning case reveals on the balance overwhelming deficiencies on the part of LCY and clear breaches of the development plan.

Conclusion

- 9.82 First, what is the question, the identification of which is critical. The question is whether having regard to the development plan so far as material and bearing in mind other material considerations should a planning permission be granted subject to different conditions from those judged necessary in 2016.
- 9.83 The development plan, so far as material, indicates refusal but this allows for the possibility of an overriding case in the public interest as a material consideration overcoming that indication. But that supposed case in the public interest is no more than a flawed business case and a limited amount, bearing in mind the existing permission, of socio-economic benefits. Further, other material considerations, in any event, strongly indicate refusal. These other material considerations include the CADP1 permission, which allows the airport to operate satisfactorily and was predicated on the proposition advanced by LCY that the permission secures optimum use of the Airport. Other material considerations include multiple points of impact on public and private activities on Saturday afternoons together with some likely sleep deprivation. These impacts have all been described by the multitude of representations by members of the public and representatives of the public. There is nothing that serves to override those considerations that militate against permission.
- 9.84 Accordingly, it is LBN's case that permission should be refused or, at the least, condition 17 in its existing form ought to be preserved.

10. THE CASE FOR HACAN EAST

- 10.1 HACAN East made it clear throughout its evidence to the Inquiry the Airport is unlike other UK airports and the current appeal proposal unlike other recent aviation expansion proposals in a number of key respects. The Airport relies more heavily on business passengers than any other UK airport. Its passengers also have higher average household incomes than any other airport serving London, despite the Airport being situated in an area with high levels of deprivation.²¹² Its flightpaths are unusually concentrated and feature an unusually long level flight segment, with arriving aircraft during easterly operations passing over South East London at 2000ft for many kilometres. This expansion proposal also falls to be determined in accordance with Policy

²¹² INQ19

T8 of the 2021 London Plan and the local planning policy context is therefore different from other recent aviation appeals.

- 10.2 Sir Stephen Timms, MP for East Ham, described how it had “*always been part of the deal*” that the Airport would close for 24 hours at weekends between Saturday lunchtime and Sunday lunchtime. The weekend curfew was the price that the Airport paid for being situated in the middle of a densely populated residential area. He characterised the current appeal proposal as “*a fundamental breach*” of the understanding that the Airport reached with the community from its inception.²¹³
- 10.3 National aviation policy is clear that, while the Government is broadly supportive of aviation growth “*within a framework which maintains a balance between the benefits of aviation and its costs*”.²¹⁴ it is for planning decision makers to weigh those benefits and costs in relation to individual proposed expansion schemes. In so doing, they should take into consideration a scheme’s environmental and economic impacts and any proposed mitigation measures.²¹⁵
- 10.4 HACAN East’s view that the economic benefits of the proposal have been overestimated is vindicated by the evidence. Its evidence also shows that the environmental costs of the proposal would be more significant than LCY acknowledges, and the mitigation proposed to meet those costs is both inadequate and uncertain. Both in respect of the anticipated socio-economic benefits of the appeal proposal and its predicted environmental harms, LCY’s case is shot through with uncertainty and characterised by a pattern of convenient assumptions. Nothing in the evidence before the Inquiry justifies the ‘fundamental breach’ of the understanding between LCY and the community that Sir Stephen Timms identified.

Economy

Business passenger growth

- 10.5 LCY has taken pains to frame the appeal proposal as a leisure-focused expansion throughout much of its evidence. However, INQ10 document shows an analysis of the data in LCY’s response to the GLA Stage 1 Report, and indicates that LCY in fact predicts a higher proportion of business passenger growth by 2031 in the with DC Scenario than in the DM Scenario.
- 10.6 When questioned on this during evidence, LCY’s need/socio-economics witness stated that the proposed expansion of the Airport would allow it to put on a number of new business routes and that “creates opportunities for business passengers who can’t use London City at the moment to use London City, so the with DC Scenario tilts slightly towards business passenger growth being a bit stronger proportionately than leisure passengers.”
- 10.7 This inconsistency in the extent to which the appeal proposal is anticipated to be leisure- or business-passenger orientated is a symptom of the broader ambiguity from LCY regarding what the appeal proposal is actually for. What

²¹³ INQ04

²¹⁴ CD3.5.01, page 9, para 5

²¹⁵ CD3.5.02, page 11, para 1.39

was provided to LBN was a business case, not a Need Case. LCY has been inconsistent regarding whether the appeal proposal is primarily designed to incentivise leisure or business passenger growth and has not provided convincing evidence that it is actually required in order to do either.

- 10.8 Even if there were greater certainty that the appeal proposal is primarily intended to be a leisure-focused intervention, increasing connectivity for business passengers remains a key part of the Need Case document.²¹⁶ This is significant for three reasons.
- 10.9 First, because there is every reason to think that the projected growth in business passenger numbers would not materialise given past trends in business passenger growth and substantial structural shifts in the economy affecting underlying demand for business travel.
- 10.10 Second, because airport capacity constraints tend not to materially impact business passenger numbers, even where underlying demand growth is strong. DfT analysis in its 2017 aviation forecasts indicated that business passengers can be expected to continue to fly regardless, even in a capacity-constrained scenario, due to their greater willingness to pay.²¹⁷
- 10.11 Third, because even if this expansion scheme did produce net additional business passenger growth, HACAN East has demonstrated that the consequent GVA growth projections are based on a substantively outdated model concerning the relationship between business passenger growth and GVA growth.
- 10.12 The trajectories shown in the Need Case for travel for business purposes are not credible.²¹⁸ The Need Case predicted that business travel demand would have recovered to pre-pandemic levels by 2023 and increased to 20% above pre-pandemic levels by 2025. The reality is very different. Right now, legal restrictions due to COVID-19 have been lifted almost everywhere, GDP is back to pre-crisis level in real terms, and leisure air travel has bounced back, but demand for business travel has not. It remains 28–31% down on 2019, as LCY's own evidence shows.²¹⁹
- 10.13 As regards future growth in business passenger numbers, HACAN East has demonstrated that a chunk of the business travel market simply never returned after 2008, and a chunk may not return after COVID-19. Business passenger projections for the present appeal proposal are based on a predicted demand model which simply does not account for the structural shift which occurred in the business travel market after the financial crisis.
- 10.14 Even if business travel growth were to exceed all expectations and return to pre-financial crisis levels or above, the relationship between business passenger growth and GDP is much less clear cut than it once was. Generally, it is understood that business passengers produce greater economic benefits than leisure travellers, but HACAN East has highlighted the dangers inherent in an uncritical reliance on the statistical relationship between business

²¹⁶ CD1.60, page 80, para 6.35

²¹⁷ CD3.5.17, page 99, para 7.12

²¹⁸ Alex Chapman, PoE, page 15, para 4.1-4.4

²¹⁹ Louise Congdon PoE, page 20, para 4.2.5

passenger numbers and economic output presented in Table 6.7 in the Need Case.²²⁰

- 10.15 In particular, HACAN East notes that the elasticity used by LCY, developed by Oxford Economics in 2013, relies on input data spanning 1980–2010, a period of booming business travel growth overall. The other surveys cited by LCY in the rebuttal proof of the need/socio-economics witness also relied on old data.
- 10.16 In the UK, the number of business air trips per £million real GDP has been declining since at least 2006. In evidence LCY appeared to accept that since the pandemic a chunk of the business travel market has dropped away as the relative advantage of air travel over digital communication had declined for certain routine business functions. This supports the conclusion drawn by HACAN East that rapid advances in digital communication and an accompanying business culture shift have reduced the relative benefits which arise from business air travel.²²¹ Taken together, this demonstrates that LCY's evidence is unreliable. At the very least, a more up-to-date analysis than the Oxford Economics work should have been used.

Displacement and substitution

- 10.17 In evidence LCY suggested that there would be effectively 100% displacement of air traffic and 95% displacement of passengers. These assumptions were not made clear anywhere in the evidence submitted by LCY before the Inquiry and LCY's need/socio-economic witness accepted in cross-examination that the underlying calculations had not been provided. LCY's response to Dr Chapman's additional note indicates that the carbon costing estimate in fact assumes 93.5% displacement of air traffic. Meanwhile, the Need Case effectively assumed 0% displacement of jobs within the local study area.²²²
- 10.18 These figures do not stack up. In every case, the underlying assumptions are those which favour LCY's case and are left opaque and uninterrogated within its written evidence.
- 10.19 The implications for the claimed benefits of the scheme are significant. First, the assumption of over 90% displacement of passengers is central to the extent of the benefit to travellers in quicker travel times to the Airport. That one assumption drove a large part of LCY's case and formed a high proportion of its overall calculation of the scheme's net present value ("NPV"). Yet it is never actually justified.
- 10.20 Second, LCY has never acknowledged the impact of the high passenger displacement estimate on the anticipated social welfare benefits of the appeal proposal. More than 90% displacement of passengers means that only a small minority of anticipated new LCY passengers in the DC Scenario would actually enjoy the benefits of flying as a result of the appeal proposal. The vast majority would travel anyway regardless of whether the proposal is permitted or not.

²²⁰ CD1.60, page 83, Table 6.7

²²¹ CD3.5.11, page 30, Figure 13

²²² CD1.60 section 4

- 10.21 Third, LCY has assumed 0% displacement of jobs within the London study area, but if 93.5% of passengers would have flown anyway on the DM Scenario, then the majority of jobs predicted to be created by the appeal proposal would likely have been created within London in any event.
- 10.22 Regarding carbon costs, the assumption of near total displacement of air traffic is not credible. Overall passenger numbers in the UK have grown rapidly over time, and the forecasts in this application are specifically predicated on there being significant future demand growth across the economy. Unlocking further growth with new capacity means additional air travel on new planes, as supported by international air traffic trends.

Employment

- 10.23 Previous expansion applications at LCY have failed to deliver projected employment gains. The Airport's passenger throughput in 2019 was 5.1mppa, over 1 million more passengers than had been permitted by the earlier planning permission.²²³ Yet the FTE jobs figure for the same year was 2,036, some 240 below the FTE jobs prediction for 3.9mppa. This was acknowledged in evidence by LCY, but attributed to an unforeseen step change in productivity due to restructuring of functions (e.g. increased automation) following the global financial crisis. LCY's evidence does not contemplate whether the aftermath of the pandemic may have given rise to another "step change". HACAN East contends that there is every reason to doubt whether projected employment gains from the present appeal proposal would materialise.

Equity

- 10.24 LCY has repeatedly touted the support in national aviation policy for the "broad social benefits" of flying, even where it leads to an overall economic deficit from outbound leisure tourism. However, Losing Altitude shows that pre-pandemic an estimated 70% of all flights were taken by 30% of the population, with individuals aged 19 and younger notably underrepresented in the flying group at just 6.4%.²²⁴ This is evidenced by CAA data. This includes the undisputed CAA passenger income figures provided to the Inquiry, which show LCY passengers are far wealthier than those travelling from other airports serving London.²²⁵
- 10.25 LCY has undertaken no analysis of the equity of the socio-economic impacts of the appeal proposal. It is HACAN East's case that far from a broad social benefit, what is offered by the appeal proposal is in fact a narrow social benefit, mainly enjoyed by a group of older, wealthier frequent fliers. If the appeal proposal is permitted then, statistically, the average Newham resident annoyed by new noise from LCY aircraft on Saturday afternoons would earn less than the passengers flying above them.

²²³ CD9.1

²²⁴ CD3.5.11, page 19, Section 3.4

²²⁵ INQ19, Confirmed at INQ27, page 4

WebTAG

- 10.26 WebTAG is not a binary yes or no tick box exercise, but rather a best practice guide that allows the socio-economic impacts of government and non-government aviation interventions to be more fully understood. LCY has obviously appreciated its worth too, since they have utilised WebTAG methodologies and referred to the Green Book at points in their evidence, where they deemed them to be useful or convenient. LCY accepted in evidence that WebTAG is not something that is solely to be used by the DfT and may be useful for other appraisal practitioners.
- 10.27 All parties agree that it is open to the Inspectors and the SoS to take the evidence on the monetised environmental impacts of the proposal into account when making their decision.
- 10.28 When the noise impact is monetised (on a conservative basis),²²⁶ the scheme creates a noise cost of -£165 million NPV over the assessment period. This is plainly a significant cost, which, on its own, reduces the benefit of the scheme from £371 million to £206 million. When the carbon impact is monetised, the unmitigated carbon cost (excluding non-CO2 impacts) is -£134 million NPV over the assessment period – again, a significant cost. When non-traded climate impacts are accounted for (in this case non-CO2 impacts) the scheme NPV turns negative, at -£272m.
- 10.29 When monetised noise impacts and unmitigated carbon impacts are taken into account, the majority (80%) of the scheme's welfare benefit claimed by LCY in the Need Case is removed: it drops from £371 million to £71 million. This significantly reduces an aspect of the benefit relied on by LCY.
- 10.30 LCY has sought to cast doubt on the usefulness of a more extensive WebTAG appraisal, specifically the usefulness of the monetised impacts from noise – the key reason for refusal and central issue at Inquiry. It was suggested that WebTAG was somehow too complicated for the Inspectors and the SoS to take its outputs into account in their decision-making, that HACAN East was suggesting the introduction of some sort of alternative planning balance, and that Dr Chapman's inclusion of monetised noise impacts in his assessment of the overall economic value of the appeal proposal introduced an element of double counting. None of these assertions are credible.
- 10.31 Planning Inspectors and Ministers are well used to considering a range of highly complex and technical outputs from the EIA process as part of their consideration of whether developments should be permitted. To suggest that WebTAG appraisal is uniquely complex or difficult to understand is simply smoke and mirrors.
- 10.32 Regarding the repeated suggestion that HACAN East has attempted to introduce an alternative planning balance, that too smacks of misdirection. It has obviously never been any part of HACAN East's case that WebTAG should be used for assessing noise or carbon impacts as noise or carbon impacts. Rather it provides an appropriate framework for assessing the impact of these societal harms on the overall economic impact of the scheme.

²²⁶ INQ25, page 1, paras 4 - 5

- 10.33 LCY's planning witness accepted that non-compliance with a development plan policy is a harm in the planning balance in and of itself, and does not prevent the factors giving rise to that non-compliance from also being material harms due to their impacts out in the world.
- 10.34 Both LCY and HACAN East provided updated notes.²²⁷ On monetisation of carbon impacts, it emerged the difference between the calculations is primarily driven by differing approaches to the "discount rate", which Ms Congdon wrongly applied from 2019, but Dr Chapman correctly applied from 2024.²²⁸
- 10.35 To conclude on the socio-economic impacts of the appeal proposal;
- a) The projected growth in business passenger numbers is highly unlikely to materialise. Absolute business passenger numbers have never recovered to their 2006 levels in the years since the financial crisis. There is no reason to suppose they would do so in the aftermath of a further structural shift in the market caused by the COVID-19 pandemic.
 - b) LCY's assumptions around displacement are opaque and inconsistent – assuming near total displacement of air traffic and carbon impacts on the one hand, and no displacement of employment on the other.
 - c) Previous projections around employment growth at the Airport have failed to materialise. Past trends and optimistic assumptions around displacement mean that the claimed employment benefits of the current appeal proposal are likely to be an overestimate.
 - d) Far from providing a broad social benefit, the appeal proposal would offer a narrow social benefit to a group of older, wealthier frequent fliers, while simultaneously exposing residents in one of the most deprived areas of London to a material new source of noise nuisance.
 - e) WebTAG provides a useful framework for assessing the monetised environmental impacts of the appeal proposal, including the monetised impacts of noise – the key reason for refusal.

Noise

- 10.36 HACAN East's case on noise has two main components. First, that the appeal proposal would have a demonstrable adverse impact on people living outside of the conventional study area and that this impact ought to be taken into account as a material planning consideration. Second, that the proposed mitigation offered by new generation aircraft is far from certain and that large numbers of people living within the study area may be more adversely affected by aircraft noise than predicted by LCY in the ES.
- 10.37 HACAN East also agrees with LBN's primary case that the removal of the Saturday afternoon curfew would have an obvious and substantial adverse impact on residential amenity, which would constitute a significant adverse effect in EIA terms and a material harm in the planning balance.

²²⁷ INQ25 and INQ28

²²⁸ For the reasons given in INQ25, page 3, paras 9-10

- 10.38 The wide-ranging effects of noise on residents within and outside of the noise contour has been reflected in statements from interested parties throughout the Inquiry. Local residents have described losing sleep and experiencing increased anxiety; closing doors and windows even in warm weather; having to pause conversations while the aeroplanes take off, and missing dialogue while watching TV. One resident had spent over £17,700 soundproofing his home. Another, who rented privately, had tried to persuade his landlord to take advantage of LCY's SIS but his landlord had not done so.

Noise impacts outside the average mode contour

- 10.39 As highlighted by the evidence of LBN, as well as by HACAN East, it is plain that noise from LCY aircraft affects residents living outside the study area. This is reflected in the objections to the appeal proposal received from 1700 individuals who commented on the original planning application, MPs and councillors representing areas as far afield as Wanstead, and eight other London boroughs apart from LBN; a quarter of the total for the capital as a whole.
- 10.40 LCY has repeatedly stressed that national aviation and noise policy does not require the assessment of noise impacts below 51dB and suggested that impacts below this level are therefore irrelevant to the decision on the appeal proposal. This ignores the obvious evidence of widespread annoyance from aircraft noise beyond the 51dB contour, in the very particular circumstances which pertain to LCY.
- 10.41 HACAN East accepts that national policy does not require an assessment of impacts below 51dB to be carried out as part of the EIA process. However, neither does it prohibit either the inclusion of non-standard metrics as part of the EIA assessment of significant effects, nor the consideration of noise impacts below 51dB as a material planning consideration. LCY's noise witness ultimately accepted that national policy does not prevent the Inspectors or the SoS from considering noise impacts at lower levels of exposure. Given the very particular circumstances which pertain to LCY, these noise impacts are an obviously material planning consideration.

Concentration of flight paths

- 10.42 Two distinctive features of LCY's flightpaths create a particularly high risk of annoyance from aircraft noise for residents outside the average mode contour living beneath them. First, as regards the easterly mode arrivals flightpath, the long level flight segment means that planes fly at 2000ft for many kilometres above South East London before they reach the base leg turn. This shelved segment of the arriving flightpath includes elevated outdoor spaces such as the Horniman Gardens, where aircraft noise is especially noticeable.
- 10.43 Second, the concentration of LCY's flightpaths in 2016 has had a clear and lasting impact on annoyance caused by LCY aircraft. As the Chair of HACAN East explained in evidence, the concentration of the flightpaths after the CADP1 permission was submitted but before it was allowed on appeal in July 2016 resulted in at least a four-fold increase in complaints to LCY. Although the total number of people overflown fell, the impact on those under the concentrated flight paths increased. Concentration was a seismic change. People complained about the concentration of the flightpaths in 2016 and, as

has been clear from statements to the Inquiry from interested parties and elected representatives, they are still complaining now, a response which belies the suggestion that people are only annoyed by new or additional sources of aircraft noise for one or two years before becoming habituated.

The value of predictable respite

- 10.44 The concentrated nature of LCY's flightpaths makes the value of predictable respite for overflowed residents all the greater. The Chair of HACAN East described the high value placed on the Saturday afternoon curfew to supporters of HACAN East living across and beyond the study area, noting that residents plan events specifically for Saturday afternoons to guarantee they would not be affected by aircraft noise.
- 10.45 LCY witnesses accepted in cross-examination that, while current easterly operations account for only 30% of the year on average, it is an unpredictable 30%. They also accepted the general proposition that there is value in predictable relief from overflight noise.

Importance of complementary metrics

- 10.46 LCY drew attention in his evidence to the fact that SoNA concluded that "No evidence was found to suggest any of the other indicators correlated better with annoyance than $L_{Aeq,16h}$."²²⁹ HACAN East does not dispute the appropriateness of $L_{Aeq,16h}$ as the primary metric for the assessment of significant noise effects. However, in light of the very particular features of LCY, complementary metrics are highly useful in the present case to capture full impact of proposed changes.
- 10.47 Several representations from interested parties also highlighted the dangers of reliance solely on the conventional metric, highlighting that that is not how they perceive noise on the ground. As Dr Keith MacLean noted, in a statement on behalf of the New Providence Wharf Leaseholders & Residents Association, "*a man with his head in an oven and his feet in a freezer*" is not a comfortable temperature, but might be found to be so on average.
- 10.48 Of particular relevance to LCY is the stark disparity in the size and population counts between the average mode and easterly mode contours. Tables 8.3.17 and 8.3.79 in Appendix 8.3 to the ES shows that in 2031 in the DC Scenario, the average mode contour is forecast to be 22.7km², while the easterly mode contour is forecast to be 44.1km².²³⁰
- 10.49 Meanwhile the forecast population count for the average mode contour, including permitted developments, in Table 8.3.20 is 302,250 people in 2031 on the DC Scenario.²³¹ For the easterly mode contour, Table 8.3.82 shows an estimate of at least 409,850 people included permitted developments.²³² However, footnote 5 explains that permitted development data was not available for the entirety of the easterly mode contour so this figure is likely

²²⁹ Richard Greer, PoE, page 19, para 3.7.12

²³⁰ CD1.39, PDF pages 21, 37

²³¹ Ibid, PDF page 21

²³² Ibid, PDF page 38

to be an underestimate.²³³ Thus the easterly mode contour for LCY is forecast to be twice as large as the average mode contour by 2031 in the DC Scenario and to be home to at least 100,000 more people and probably more.

- 10.50 The easterly mode contour maps also provide a stark visual representation of the Airport's concentrated flightpaths and low-level flight for many kilometres over South East London, showing an extended C-shaped curve within which residents are exposed to noise impacts above the LOAEL during easterly operations. For all of these reasons it would have been beneficial for LCY to factor single mode contours into assessment of the significance of the noise effects of the appeal proposal. In the absence of such an assessment, it is submitted that the data on the single mode contours which is presented in Chapter 8 and Appendix 8.3 of the ES and the representations from residents living within those contours should be taken into account as a material planning consideration.
- 10.51 The other two metrics which HACAN East suggest would be useful for the Inspectors and SoS to consider were the N65 contour, and the cumulative impact on residents overflown by aircraft from both LCY and Heathrow. HACAN East suggests that the N65 contour data is especially relevant in a context where the primary concern of residents is regarding the number of new flights on a Saturday afternoon. Meanwhile the effect of Heathrow aircraft in combination with the Airport was apparent from many of the interested party representations to the Inquiry.

Uncertainty of proposed mitigation

- 10.52 The promise of quieter planes is absolutely central to LCY's case. The Benefits and Mitigation statement includes a claimed reduction of 3.2 dB for arrivals and 5.4 dB for departures.²³⁴ Before interrogating the adequacy of the proposed embedded mitigation two preliminary points must be addressed. The first concerns the 'burden of proof' and the second the difference between absolute and perceived noise levels.
- 10.53 In *Satnam Millenium Ltd v SSHCLG* [2019] EWHC 2631 (Admin), Sir Duncan Ouseley highlighted the inappropriateness of the imposition of a 'beyond reasonable doubt' standard of proof in determining points in an Inquiry. However, he accepted that some policies can, and do, require the developer to produce evidence to a standard which meets the objective of showing that a particular adverse effect would not occur, or is very unlikely to occur. He endorsed a precautionary approach about where risk of error should lie – the more serious the risk of an adverse effect occurring, the greater the certainty or degree of precaution required in the applicable evidential standard.
- 10.54 In the context of the present appeal, Policy D13 of the London Plan 2021 sets out the Agent of Change principle, which places the onus for mitigating the impacts of new noise or nuisance generating development on the developer.²³⁵ At a national level, MBU provides general policy support for airports beyond Heathrow making best use of their existing runways but

²³³ CD1.39 PDF page 30.

²³⁴ CD1.66, page 18

²³⁵ CD3.3.1 page 150

provides that "As part of any planning application airports will need to demonstrate how they will mitigate against local environmental issues, taking account of relevant national policies."²³⁶ It explicitly does not prejudge individual applications or provide carte blanche for expansion where local environmental impacts cannot be satisfactorily mitigated.

- 10.55 Thus, caselaw, national and local policies are agreed that the onus for mitigating the adverse environmental impacts of airport expansion proposals and providing sufficient evidence to demonstrate the adequacy of that mitigation lies upon LCY. In the present circumstances, that means the burden is on LCY to demonstrate that the proposed embedded mitigation is as effective as claimed.
- 10.56 As for the extent to which any reduction in noise levels is likely to be noticeable or meaningful to residents on the ground a change of 3dB has been defined by the CAA as the minimum perceptible under normal conditions while a change of 10dB corresponds to roughly a doubling or halving of loudness.

Reliability of Citizen Science Study

- 10.57 HACAN East presented Dr Nold's Citizen Science Study to the Inquiry, which found that the difference between old and new generation Embraer aircraft from six monitoring stations within the easterly mode contour but outside the average mode contour was 1.7dB on average.²³⁷ He also found that there was considerable variation between individual aircraft, and that the new generation planes were not meaningfully quieter on average during overflight than older aircraft.
- 10.58 The Inquiry heard that the results of the Bickerdike Allen survey,²³⁸ carried out using class 1 sound level meters and published by LCY in November 2023, serve to validate the results in the Citizen Science Study for the two generations of Embraer aircraft and increase the confidence that the Inspectors can place in Dr Nold's other findings. It is seen from other empirical studies cited in the Citizen Science Study that it is in fact entirely consistent with real world datasets for aircraft noise measured across Europe.
- 10.59 Measurement variations are to be expected in on-the-ground datasets recording noise levels from aircraft during overflight. On the ground measurements from new generation aircraft demonstrate great variability, even within the shelved 'stable' part of the flightpath, which is obscured by the use of averaged metrics in the modelled data. HACAN East suggests that the variation in absolute noise levels identified in the Citizen Science Study provides a valuable illustration of a crucial point; namely that there is a high degree of uncertainty around the noise impact that any single aircraft would make at a specific time and place.
- 10.60 If we look at the aircraft comparison between the two Embraer aircraft at each location, there is very little variability. Overall, while the absolute

²³⁶ CD3.5.3, page 8, para 1.26

²³⁷ CD3.7.20, PDF page 11, Table 3

²³⁸ CD3.7.55

measurements vary quite considerably, the relative comparison between the two aircraft is very close for each location.

Impact of empirical noise monitoring studies

- 10.61 The new Bickerdikey Allen survey records data from LCY's fixed monitoring terminals, finding a 3.4dB improvement in new generation aircraft for arrivals from NMT5, situated within the 57dB contour,²³⁹ all the modelled locations included in Table 8-21 in the ES are also within the 57dB contour. This leaves us in a position where we know what is happening within the 57dB contour, where there is likely to be a modest but meaningful improvement in noise levels from new generation aircraft, and we know what is happening outside the average mode contour in the long tail of the easterly mode contour, where the difference is likely to be imperceptible. However, between the two is a band of uncertainty. It is far from clear how quickly the perceptible benefits from new generation aircraft recorded at NMT5 drop off, since no empirical data for the 51dB and 54dB contours is before the Inquiry.
- 10.62 Analysis of the data presented in ES Table 8.3.20, showing summer day population counts including permitted development, shows why this band of uncertainty is so significant. Thus we can see that some 130,400 people are forecast to experience noise impacts between 51dB and 53.9dB, representing 44% of the total population living within the LOAEL but outside the SOAEL. 90,800 are forecast to experience impacts between 54dB and 56.9dB – a further 31%. Therefore around three quarters of all the people living within the LOAEL but outside the SOAEL are concentrated in the outermost portion of the study area: the blue bands on the various average mode contour maps.

Population Counts for 3dB ranges within study area.		
Figures taken from ES Table 8.3.20: Average summer day population counts, including permitted developments, 2031 DC Scenario		
51 - 53.9 dB	130,400	44.4%
54 - 56.9 dB	90,800	30.9%
57 - 59.9 dB	48,850	16.6%
60 - 62.9 dB	23,600	8.0%
Total within LOAEL but outside SOAEL	293,650	100%

- 10.63 If the reduction in noise levels from new generation aircraft within the 51dB and 54dB contours is closer to the 1.9dB measured at Lambeth and the 1.7dB measured by Dr Nold than to the 3.4dB measured at NMT5, then three quarters of the people living between the LOAEL and the SOAEL thresholds may be subject to considerably more adverse noise effects than predicted. This uncertainty could easily have been avoided if Bickerdikey Allen on behalf of LCY had carried out additional noise monitoring within the 51dB and 54dB

²³⁹ CD3.7.55, page 7, Table 2

contours, but such monitoring either has not been carried out or is not before the Inquiry.

- 10.64 On this point it is important to correct a misrepresentation of HACAN East's case which arose during re-examination of LCY's witnesses. LCY recognised in its opening statement that the assessment of air noise impacts in the context of EIA has regard to both the absolute level of noise and the difference in noise levels between the DC Scenario and the DM Scenario. Thus highlighting that significant effects are not confined to the area above the SOAEL threshold. We are not only concerned with the baseline, but also with the magnitude of the change.
- 10.65 HACAN East has not disputed LCY's estimate of the likely level of change for people living within the SOAEL, and therefore the probability of significant effects on these people in EIA terms.
- 10.66 What is disputed is the effect of the proposed development on people living within the LOAEL. The evidence from HACAN East's Citizen Science Study, validated by the almost identical findings in the Bickerdike Allen survey, is that the new generation Embraer aircraft provide such a small reduction in noise levels during overflight that it would not even be perceptible in normal conditions. Yet no on the ground measurements have been taken in the 51dB or 54dB average mode contours (the light and dark blue portions of the noise contour maps) to see whether the benefits of the new generation aircraft are actually felt across the study area. HACAN East's case has never been about "how far out the orange extends" on the noise contour maps. It is all about how big the impact is on the majority of affected residents living in the blue.

Compensatory mitigation

- 10.67 The compensatory mitigation measures proposed to accompany the removal of the Saturday curfew, such as the enhanced SIS, are subject to some important limitations.
- 10.68 First, they are only available within the 57dB contour. Outside of this contour, where the bulk of residents within the LOAEL live, individual residents would still be required to pay for any sound insulation measures, potentially at great expense, as the Inquiry heard from some of the interested parties. Second, they would provide no benefit for private tenants if their landlords do not apply to LCY for financial assistance or consent to having the work done. Third, they provide no benefit when residents are outdoors. LCY's point regarding the amount of time that people spend indoors on average misses the subjective value of time spent in urban green space for health, wellbeing and general quality of life.

Planning

The Development Plan

- 10.69 HACAN East agrees with LBN that Policies SP2 and SP8 of the Newham Plan are both relevant to the determination of the appeal, and that they should be interpreted to encompass impacts from noise on residential amenity and well-being, broadly construed, rather than as focusing narrowly on health impacts alone.

- 10.70 Policy SP2 requires development to “attend to the environmental impacts” of noise as a “contributor[...] to health and well-being”. There is nothing in the text of the policy to suggest that it applies only where an adverse health effect has been formally identified as part of the EIA process. Similarly, Policy SP8 refers to the need to “Avoid unacceptable exposure to [...] noise” as an “amenity or health impacting pollutant[...]”.

Policy T8 and climate change

- 10.71 In *R(Cherkley Campaign) v Mole Valley DC [2014] EWCA Civ 567, [2014] P.T.S.R. D14*, the Court of Appeal laid down the following principles;
- (a) When determining the conformity of a proposed development with a local plan the correct focus is on the plan’s detailed policies.
 - (b) The supporting text is relevant to the interpretation of a policy to which it relates.
 - (c) However, it is not itself a policy or part of a policy; nor does it have the force of policy.
 - (d) A failure to satisfy an additional criterion referred to only in the supporting text does not constitute a failure to comply with the development plan, provided that a proposal conforms with the text of the plan policies. That applies even where the local plan states that the supporting text indicates how the policies would be implemented.
- 10.72 *New Dawn Homes v SSCLG [2016] EWHC 3314 (Admin)* summarised these principles as follows: “the reasoned justification can affect the correct interpretation of a requirement contained in the policy, but it cannot impose an additional requirement outwith the policy itself” [§36]. Holgate J further held that a piece of explanatory text may still be relevant to the interpretation of policy even if it crosses the line into inserting an additional policy requirement. The policy requirement would not have effect, but the text may still perform an interpretative function [§37].
- 10.73 In January 2022, the Mayor set out details of how he intended to meet the target of making London Net Zero by 2030 (a promise which formed part of his re-election campaign) in the policy paper ‘London Net Zero 2030: An Updated Pathway’.⁵¹ This document draws on a report commissioned by the Mayor and published on 18 January 2022 by Element Energy: ‘Pathways to Net Zero Carbon by 2030’.
- 10.74 The report concluded that, regardless of which of its proposed potential pathways to Net Zero the Mayor ultimately adopted “Aviation emissions have a large impact on the level of residual emissions from transport [...]. As such, limiting growth of aviation as far as possible is a crucial action for achieving the Mayor’s climate ambitions.”²⁴⁰
- 10.75 The explanatory text requires expansion proposals to be ‘aligned with’ Mayor’s carbon reduction targets. While this text cannot introduce a strict requirement not found in the text of the statutory policy, it can perform an

²⁴⁰ CD3.9.38, page 54.

important interpretive function. Moreover, the Updated Pathway document is capable of being a material planning consideration in its own right. In the present circumstance, it is the text of the detailed policy itself which sets out what this 'alignment' with the Mayor's carbon reduction targets means in practice; namely that, subject to an appropriate assessment, proposals must demonstrate that there is an overriding public interest or no alternative solution with fewer environmental impacts.

Appeal proposal does not comply with the Development Plan

- 10.76 HACAN East agrees with LBN that the appeal proposal fails to comply with the wellbeing and quality of life aspects of Policies SP2 and SP8 of the Newham Plan, due to the failure to provide adequate mitigation for the significant adverse effect on noise arising from the removal of the Saturday afternoon curfew.
- 10.77 LCY has repeatedly stressed the emphasis in Policy SP2 on the "need to improve employment levels and reduce poverty". For the reasons set out by HACAN East in its socio-economic evidence, the extent to which the appeal proposal can be expected to do either is highly uncertain.
- 10.78 HACAN East also agrees with LBN that Policies D13 and T8 of London Plan are breached on grounds of noise, since the inadequacy of the proposed mitigation for the noise impacts of the appeal proposal means that it fails to "clearly demonstrate[...] how noise and other nuisances would be mitigated and managed" in accordance with Policy D13 or "include mitigation measures that fully meet [its] external and environmental costs, particularly in respect of noise" in accordance with Policy T8(B).
- 10.79 In addition to breaching Policy T8 on noise grounds, HACAN East submits that an additional conflict with the policy arises in respect of the appeal proposal's climate change impacts.
- 10.80 Policy T8 requires that demonstration of an overriding public interest or lack of suitable alternatives. In circumstances where LCY has provided a business case rather than a Need Case, and where there would be an acknowledged lower climate impact if additional demand were handled at other airports, the appeal proposal satisfies neither of these criteria.

The Planning Balance

- 10.81 The appeal scheme conflicts with Policies SP2 and SP8 of the Newham Plan and D13 and T8 of the London Plan, and therefore the development plan taken as a whole. Accordingly, the presumption against the grant of planning permission under section 38(6) of the Planning and Compulsory Purchase Act 2004 comes into play. Permission should be refused unless material considerations indicate otherwise.

Benefits

- 10.82 HACAN East recognises that there would be some economic benefit from the appeal proposal but the extent of this benefit has been greatly overestimated for the reasons set out in HACAN East's evidence. Specifically, the employment gains from the proposal are likely to be less than predicted, business passenger growth and consequently GDP growth lower than

forecast, and the monetised environmental harms arising from the proposal to be substantial. All these factors greatly reduce the weight that can be attributed to the economic benefits in the planning balance.

- 10.83 The claimed beneficial effect on health is also predicated on assumptions about employment and noise that are disputed by HACAN East. While no issue is taken with the methodology of the health chapter in the ES, if the inputs are wrong the outputs would also be wrong, and HACAN East therefore contend that there is considerable uncertainty regarding the health effects of the proposal.
- 10.84 For all the reasons set out above the embedded noise mitigation is extremely uncertain regarding the level of reduction in noise levels for residents within the 51dB and 54dB contours. This reduces the weight to be attributed to the benefits of faster re-fleeting if the appeal proposal is granted permission.
- 10.85 National aviation policy does provide support for aviation expansion in general terms. However, MBU weighs negative in planning balance where there is non-compliance. As set out above, in the circumstances of the current appeal proposal, HACAN East submits that LCY has not demonstrated that the adverse environmental impacts would be satisfactorily mitigated and therefore the policy support of MBU does not apply.
- 10.86 The projected GHG emissions from the Airport in the year 2031 in the DC Scenario would be 389,519 CO₂e tonnes, a net increase of 77,024 CO₂e tonnes over the DM Scenario. Nevertheless, LCY has suggested that the appeal proposal would actually have a positive effect on climate change because it would purportedly facilitate a new generation of planes with lower per-passenger emissions. In light of the acknowledged higher carbon costs of meeting new passenger demand at the Airport rather than other larger airports serving London, it is illogical for LCY to suggest that the carbon impacts of faster re-fleeting should be awarded any positive weight in the planning balance.

Harms

- 10.87 The key harm is the adverse impact on residential amenity within the study area arising from the removal of the Saturday afternoon. As set out by LBN in its evidence, assessing the extent of this harm would require an element of subjective planning judgement on the part of the Inspectors and the SoS but HACAN East contends that it would be significant and great weight should be attributed to it.
- 10.88 HACAN East also submits that the widespread evidenced noise impacts outside the 51dB average more contour is a further material harm which weighs against the grant of permission, as is the uncertainty of the embedded mitigation which affects the reliance that can safely be placed on the assessment of noise effects in the LOAEL in the ES and LCY's witness.
- 10.89 Though LCY took a different view on the substance of the noise and economics evidence, it's witness accepted that if the Inspectors and the SoS were to accept HACAN East's evidence on the extent of the economic benefits of the proposal and the uncertainty of the proposed embedded mitigation, this would feed through into the weight that should be attributed to economic benefits and noise harms respectively in the planning balance.

- 10.90 The acknowledged greater climate change impact of the proposal than if additional demand were handled at larger London airports is a further harm of the proposal.
- 10.91 Accordingly, on balance, while there are material considerations which point towards the grant of planning permission, these do not overcome the presumption against as a result of lack of compliance with the development plan, taking into consideration the material considerations that weigh against the grant of planning permission.

Conclusion

- 10.92 The strength and scale of local opposition to the appeal proposal has been apparent throughout the process. In circumstances where there is considerable risk of environmental harm and uncertainty over its likely extent, a precautionary approach should be adopted. In the present circumstances we have hundreds of thousands of people who would be exposed to a material new source of noise on Saturday afternoons, and, given the uncertainty over the proposed mitigation, tens of thousands who may be exposed to more significant adverse effects than forecast in EIA terms. In line with the precautionary approach and local planning policies, the burden is on LCY to demonstrate that adverse environmental effects would not occur. It has not been discharged. Set against this risk of significant harm, we have economic benefits which have been shown to be highly speculative. The Inspectors are invited to recommend to the SoS that the appeal be dismissed.

11. THE CASES FOR INTERESTED PARTIES APPEARING AT THE INQUIRY

Sir Stephen Timms MP²⁴¹

- 11.1 Sir Timms has been MP for the area including the Airport (East Ham constituency) since June 1994. He was also involved in the original planning permission for the Airport, in his capacity as vice chair for the Planning Committee in 1986-1987.
- 11.2 He is a supporter of the Airport and considers that it has been an excellent corporate citizen of LBN. The original proposal for an airport was a controversial one. Some local residents energetically opposed the Airport in principle, as inappropriate in an urban area. But there has always been a large group of residents – the larger group – which has welcomed the economic benefits that the Airport has brought. The Docks, where the Airport is located, used to be the source of tens of thousands of local jobs, but closed down in the 1970s. Most people, in the 1980s, when the Airport was being planned, were pleased at the prospect of jobs coming back.
- 11.3 A high value is placed on the contribution made by the Airport to the local economy. It provides excellent work opportunities for a significant number of local residents, and opportunities, particularly for young residents, to embark on attractive careers. The Airport has always been committed to recruiting unemployed local people, for example with its 'Take Off Into Flight' initiative. Notwithstanding the impact on local residents, and within reasonable

²⁴¹ Written transcript is at INQ04

constraints, it is fair enough for the Airport to seek to increase the number of people and flights it accommodates.

- 11.4 However, ever since he negotiated those original planning conditions for the Airport almost four decades ago, it has been part of the deal that the Airport will close for twenty-four hours every weekend, from 1230 Saturday lunchtime to 1230 Sunday lunchtime. Extending flights to Saturday afternoon is a fundamental breach of that understanding. Residents living near the Airport will never again be able to enjoy a quiet weekend afternoon in their garden. That would fundamentally erode residents' ability to enjoy their homes. And, if you are outdoors, those aeroplanes are extremely noisy.
- 11.5 It is also the recollection of the original developer that the 24 hour weekend pause was fundamental to reaching the agreement which allowed the Airport to open. On behalf of the East Ham constituents, it is asked that the SoS upholds LBN's refusal of the application and dismisses the appeal.

John Cryer MP

- 11.6 Mr Cryer is the MP for Leyton and Wanstead and is opposed to the end of Saturday respite for residents and to increase flights early in the morning which would affect constituents at a sensitive part of the day throughout the week. Over 4000 residents are overflowed and the narrow flight paths make the situation worse.
- 11.7 It is considered that the increase in passengers from 6.5mppa to 9mppa can be achieved without the need to fly on Saturday afternoons. Any proposed changes to City Airport must retain the full 24-hour weekend respite for residents that has been in place since the Airport opened and reduce, not increase, the total emissions from the Airport.

Councillor J Blackman²⁴²

- 11.8 Cllr Blackman spoke as the Cabinet Member for environment and sustainability at London Borough of Redbridge and is Cllr for Wanstead village. He is concerned about the profound noise and environmental impacts on residents of Redbridge, particularly as the flight path is concentrated on a number of wards in the borough: Wanstead Village, Wanstead Park, Clayhall, Barkingside. Other areas may also be impacted by the expansion plans. These include:
- Increasing passenger numbers from 6.5m to 9m, increased flying times on Saturdays and early mornings – unacceptable for our residents.
 - Also times when most intrusive – early and late in the day. Residents already raising concerns about flights and oppose expansion plans.
 - Plans don't take into account the increased cumulative impact of flights from other airports eg combined impact of the expansion of Heathrow.
 - Loss of respite: this was considered a crucial condition that was part of the original agreement to allow residents a break from aircraft noise. This has not changed since then, if anything it is now more necessary

²⁴² Written transcript is at INQ07

- as flights during permitted times have increased as has the population impacted.
- Residents believe that it would further impact noise pollution, air quality – adversely impacting health and quality of life.
- 11.9 Redbridge also has substantial housing growth targets set out in the Redbridge Local Plan up to 2030. These include a total of 17,237 new homes for the borough, planned for development largely in Investment and Growth Areas (key town centres) across the Borough. Impacts would also be on new residents, associated with housing growth in our Investment and Growth Areas.
- 11.10 The noise and emission impacts upon sensitive areas such as historic parks and gardens, medical centres/hospitals, tall buildings of the borough and Epping Forest, should also be considered, as we are concerned about adverse impacts on them too.
- 11.11 As trustee of Epping Forest Heritage Trust, we have specific concerns about the impact on Epping Forest which is a SAC (Special Area of Conservation) and SSSI (Site of Special Scientific Interest).
- Internationally important site it is afforded the highest level of protection due to its habitats and species that are vulnerable or rare and under threat.
 - Known for its beech trees and wet and dry heaths and for its population of stag beetle.
 - Would be adversely impacted by flights, noise and air pollution, as well as emission.
- 11.12 Climate change (which is exacerbated by emission from flights) is already impacting the ecology of the Forest with changes in weather patterns, drier summers and warmer winters, ponds dry up and more pests survive in warmer winters.
- 11.13 There is also scepticism of the argument that it would encourage airlines to speed up the process of introducing new generation aircraft into their fleet which are quieter. Any noise reduction should be used to improve the current situation for residents rather than to justify expansion.
- 11.14 Residents' concerns are also shared about the impact on emissions and the detrimental effect on climate change. The Borough has suffered from more extreme weather events – droughts and flooding, an increase in emissions has both global and local impacts via changes in the climate.
- 11.15 In summary, he opposes the expansion proposals because of the detrimental effect of noise and air pollution on the health and well-being of residents of the Borough, and wider climate impacts.

New Providence Wharf Leaseholders & Residents Association

- 11.16 Keith Maclean spoke on behalf of New Providence Wharf Leaseholders & Residents Association (NPWLRA). NPWLRA represents close to 1,300 apartments across various residential blocks, namely New Providence, Wharf, Michigan Building, Ontario Tower, Charrington Tower, and Columbia West, which are located around 2 miles from the runway, in Tower Hamlets.

- 11.17 New Providence Wharf is particularly impacted by noise pollution from the Airport since aircraft are invariably flying very low when they pass over, either still on the initial ascent flightpath for westbound take-offs or on the final descent flightpath for easterly landings. Unfortunately, there is no respite when the wind changes direction. The properties are high rise and river facing and as such are generally quieter with low background noise. Residents know about the Airport when choosing to live in the properties, however they also are aware of the 24hr respite period which allows them to enjoy their gardens and hold normal conversations without being interrupted by flights.
- 11.18 The maximum allowed annual flight limit has never yet been met. This means that, even within existing limits, residents could already suffer from a minimum 40% increase in noise disturbance (based on pre-pandemic levels) but are likely to perceive more than a doubling compared to last year. This makes it all the more important that existing protections are maintained and certainly not weakened. NPWLRA therefore specifically reject the proposal to reduce the 24-hour curfew between 1230 on Saturdays and Sundays – this measure currently gives significant respite from the aircraft noise and must be maintained.
- 11.19 Studies have demonstrated the adverse effects of aviation noise on health outcomes, including cardiovascular diseases and sleep disturbances. The proposal to increase flight numbers by 50% in the period from 0630 to 0700 is therefore also rejected. This measure, in particular, would impact directly and adversely on already disturbed sleep patterns. The economic benefits that the Airport brings to the broader community are acknowledged. However, these should not come at the expense of residents' health, well-being, and quality of life. The balance between economic development and community well-being is delicate, and the Council's decision strikes the right chord in maintaining this equilibrium.

Newham All Star Sports Academy

- 11.20 Natasha Hart is the Chief Executive of Newham All Star Sport Academy (NASSA) which is a charitable organisation supporting children in accessing and participating in sports (notably basketball). It has partnerships with around 35 schools at primary and secondary level. It also has links with UEL. NASSA gives the opportunity for under-privileged young people the opportunity to gain qualifications and gain confidence and skills which contribute to future employment, transforming communities. Some members have gone on to play for national league teams.
- 11.21 The Airport has supported NASSA for 18 years, through its community funds. It has helped with erection of basketball hoops and improved sports facilities. The Airport also helps with providing apprenticeships and jobs for parents.
- 11.22 Having attended the local meetings about the proposals, the quieter planes would be a benefit as well the investment of an additional £3.85m into the Community Fund. NASSA members train Monday-Friday and play competitively at weekends. Players are not affected by the noise.

M Mendes of Courtyard Hotel

- 11.23 Mr Mendes is the manager of the Courtyard Hotel and expressed his support for the Airport. Newham is a deprived area and the proposal would support economic growth and opportunity. Extended hours would support local business with the demand for additional food and drink requirements and possible overnight stays.

Newham Chamber of Commerce

- 11.24 Lloyd Johnson, on behalf of the Chamber of Commerce, expressed his support for the Airport. The expansion of the Airport is a fantastic opportunity. It would create more jobs in the area, and particularly young people's jobs. As a business the Airport needs to evolve, and the jobs are well paid in the community.

***Local Residents*²⁴³**

- 11.25 A total of eighteen residents from the local area appeared at the Inquiry. These were from in close proximity to the Airport, as well as from further afield, such as Tower Hamlets, Thamesmead, Bexley, and Bow. All expressed their concerns about noise and the loss of the Saturday afternoon respite period, which is precious to residents affected by airplane noise. There was concern expressed that the noise metrics used in the ES does not represent what can actually be heard and experienced.
- 11.26 Some residents explained they had benefitted from noise insulation but that its effects are limited as they can't open their windows in the summer or use their gardens. Associated health effects in terms of sleep deprivation, stress, and hypertension were also referenced.
- 11.27 People have moved to the area safe in the knowledge that there is a respite period and that was an important consideration in making the decision to purchase a property. The area is also set to grow further and more people would be affected in the future. Other concerns related to air quality, particularly as all local residents come under the Mayor's ULEZ scheme now; this is at significant odds to airport expansion. Climate change was also a concern.

12. WRITTEN REPRESENTATIONS

- 12.1 Over 400 representations made in respect of the appeal, the majority of which are made in objection to the proposals.
- 12.2 Many of the appeal representations reiterate comments made at pre-application and application stage²⁴⁴ and repeat points made by the main

²⁴³ Some residents provided transcripts, please see INQ05, INQ06, INQ08, INQ26 & INQ27

²⁴⁴ See CD4.5 for consultation responses received from organisations, bodies and political representatives to the planning application. LBN OR also provides a helpful summary, including objections from interested parties at CD4.3.1 and CD4.3.2

parties. Eight London Boroughs²⁴⁵ objected to the application primarily in respect of noise and air quality, as well as climate change.

- 12.3 A brief summary of the appeal representations is given below.

Neighbouring local authorities

- 12.4 **London Borough of Havering** strongly object to the Proposed Amendments to CADP1 as they would have a significant adverse impact upon the residents in the Borough in particular to quality of life, noise levels and disturbance and local air quality. Noise from low flying aircraft is a significant issue for Havering residents and there is increased inconvenience and disturbance reported. The current 24-hour closure at weekends gives welcome respite to those residents who live and work underneath the departure and arrival flight paths and the proposals to operate flights on Saturday afternoons is considered unacceptable. Concern is also raised at the frequency of additional early morning flights, affecting sleep.
- 12.5 There has been no meaningful assessment of impacts of noise and air quality on Havering within the application. Havering is working to improve air quality issues in the borough through an Air Quality Action Plan (AQAP) and adopted Climate Change Action Plan with a commitment to being a Carbon Neutral Borough by 2040 or sooner, the increase in flights is expected to cause a detrimental impact in the area, and invalidate the effect of the schemes already undertaken to improve local air quality.
- 12.6 **London Borough of Lewisham** strongly opposed any expansion due to the impact this would have on residents and the environment as a whole. There is no justification for ending the 24 hour ban. Lewisham residents should expect to be able to have a necessary break from noise, and air pollution during their weekends especially during the busy summer leisure flight periods when they would need to go outside. The assumptions and input parameters behind the modelling undertaken for new generation aircraft are not real life situation therefore the findings and conclusions should be treated with caution.
- 12.7 Lewisham supports the London Mayor's commitment to meet the WHO guidelines for PM2.5 which is more ambitious than the goal in the new national Clean Air Strategy. We must continue to work toward reducing concentrations of pollutants achieving the prescribed WHO levels. Urgent action is needed to prevent the very worst impacts of climate change. Lewisham is one of a number of local authorities that have declared a climate emergency and is taking steps to make a significant and sustained reduction in carbon emissions. Given the extent of action needed, it is inconceivable that the global aviation industry can continue in the same way it has been with unchecked growth. Other concerns in respect of engagement and the ES are also raised.

²⁴⁵ These include London Borough of Lewisham, London Borough of Waltham Forest, London Borough of Redbridge, London Borough of Southwark, London Borough of Havering, London Borough of Hackney, London Borough of Tower Hamlets and Royal London Borough of Greenwich.

- 12.8 In addition, the current flight paths need to change before any other expansive proposals. The impact of low altitude level arrivals flightpath over a long distance (i.e. 30km) over London should be fully assessed and documented. It is clear that there is already a very congested flight path over Lewisham where flights cross at a low level into and out of Heathrow and City Airports. All efforts should be made to re-organise these flight paths to lessen the impact on residents before any new flights are planned.
- 12.9 **London Borough of Redbridge** strongly opposes any expansion of the Airport. The plan includes proposals to:
- Significantly increase passenger numbers at the Airport from 6.5 to 9 million
 - Remove the current ban on flights at weekends between 1230 Saturday – 1230 Sunday which was part of the original planning permission. There are no proposed changes to the current operating hours on Sunday however this would mean there is no respite from aircraft noise over the weekend for residents.
 - Double the number of flights in the first hour of operations between 0630–0730 and during the last half hour between 1000–1030. These are the times when aircraft noise is most intrusive.
 - Allow more flexibility for delayed departures and arrivals in the last half hour of operations each day (1000–1030). They are currently limited to 400 per year.
- 12.10 These proposals would have profound noise and environmental impact on residents of Redbridge, particularly those living under the concentrated flight paths. The expansion would further impact the Council's ambitious climate action plan, including the key ambition to become carbon neutral by 2030 and carbon zero by 2050. The introduction of new generation aircraft would occur with or without the proposed expansion as new aircraft are introduced by carriers. Any noise reduction would be negligible and this would be offset by a greater number of aircraft flying over for longer hours. It is also concerning that airport expansion would proceed in advance of proposed flight path changes which makes it difficult to ascertain which parts of the borough's population might become exposed to further noise pollution.
- 12.11 Redbridge has substantial housing growth targets set out in the Local Plan. Any additional exposure an area has to aircraft noise, and any re-routing of flight paths, should also consider whether it would impact upon the borough's Investment and Growth Areas. Noise impacts upon sensitive areas such as historic parks and gardens, medical centres/hospitals, tall buildings (over 18 meters) of the borough and any emission impacts on Epping Forest in the north-west of Redbridge should also be considered. The expansion plans have not considered the environmental impacts for the wider sub-region, not just in recognition of the potential impacts for a broader area, but also in recognition of the very wide public interest and level of concern that the changes to the permission has raised.

Other organisations

- 12.12 **Transport for London (TfL)** are responsible for regulating London Taxis and private hire vehicles that serve the Airport. They also have oversight responsibilities for the local highway as part of London's Strategic Road Network and are highway authority for Woolwich Manor Way to east of the

Airport. TfL can only agree changes to TfL services and infrastructure that are practicable to deliver and maintain for the public. TfL has already identified priorities to make it easier to travel to the Airport by DLR and bus such as improved wayfinding at Canning Town, taking account how journey impact on TfL network is forecast to change in Transport Assessment submitted with the application.

- 12.13 TfL is party to the original planning S106 agreement and are also party to the Deed of Variation, as it includes a Sustainable Transport Fund. The Deed of Variation is important to TfL as would enable the projected growth to better align with the strategic approach to transport.
- 12.14 **Historic England** considers that the development could cause harm to archaeological remains and field evaluation is needed. A condition in this regard is recommended.
- 12.15 The **Green Councillor Group** at the London Borough of Newham express opposition to the appeal proposals which would end the hard-won prohibition on flights between 1230-1900 on Saturdays and introduce additional early morning flights. This would see the Airport service and increase of nearly 40% of passengers per year. The plans would lead to a new material noise impact, causing significant disruption for residents in the borough. The unwillingness of the Airport to listen to elected representatives confirms that corporate greed comes ahead of the needs of communities. The much-hailed delivery of a 'new generation' of quieter planes would not meet the promise of reducing disturbance forced on local communities.
- 12.16 Local residents are already unhappy about levels of noise pollution caused by the Airport, which can cause significant disruption to sleep and create real mental and emotional distress. The scale of the impact cannot be overstated – hundreds of thousands fall within where planes fly under 4000 feet in altitude. The proposal would only add to grievances, replacing much needed respite on Saturdays with further disturbance. Any airport expansion in the middle of a climate emergency is wrongheaded and dangerous. At a time when we ought to be urging people to shift away from air travel to other, more sustainable forms of travel, increased airport capacity would serve only to further induce demand for flights and would harm our efforts to reduce carbon emissions to net-zero in time to stop runaway climate change. While the planet burns around us, there can be no justification for the Airport's expansion. Newham's own Climate Action Plan, which has the more stringent goal of a net zero borough by 2045, would be utterly undermined by these proposals. We find it difficult to see how these proposals would be consistent with Newham's Local Plan.
- 12.17 The Airport is situated in one of the worst boroughs in the country for air quality, and where over a hundred people every year die prematurely due to our toxic air. It is in the centre of a heavily residential area where people already suffer deeply due to the noise and pollution caused by the Airport and flights arriving at or departing from it – with many of the local communities predating the existence of the Airport. Its expansion would only serve to worsen these effects. The proposals would inevitably lead to greater levels of traffic congestion in East London, and undermine attempts to reduce air pollution. The proposals would cause Londoners to unnecessarily endure unsafe air pollution for longer than necessary.

- 12.18 The **Royal Docks Management Authority (RDMA)** objects to the proposals on the grounds of increasing its operational constraints. RDMA can only move vessels under 12m aircraft (height above the water) down to the London Internal Exhibition Centre in Royal Victoria Dock from King George V Lock when the Airport is closed. This would mean sitting in the Lock for longer periods of time, incurring increased costs for tugs and staff and impacting on what RDMA is able to offer. The current 24-hour stand down period between Saturday and Sunday also gives RDMA the ability to construct and deconstruct cranes for heavy lifts, such as those which would be required for the refurbishment of the Lock Gates. There was also no consultation on the impact of the proposed change on RDMA with the organisation.
- 12.19 **Jamestown Harbour Residents Association** is a private residential estate of 53 long leasehold flats and 20 freehold houses which are situated to the east of Blackwell Basin, in the Borough of Tower Hamlets. The estate is around 3 miles from the Airport and lies directly in the flightpath of aircraft taking off and landing.
- 12.20 The noise would increase if the appeal is allowed. The increase in the number of flights, and with the change in permitted time of flights would add to the considerable misery for those who live in the flight path. The noise is intolerable, harmful to health which results in a reduction of quality of life, disrupts sleep and can increase stress. The area below the flight path has become a very densely populated area of East London. On emissions, aircraft burn fossil fuels which increases CO₂ emissions and has strong warming non CO₂ effects from nitrous oxides.
- 12.21 **Born Everywhere: Made in Newham** state that their 668 members have overwhelmingly rejected plans to expand the Airport.
- 12.22 **Garford Street Residents** have peace only on Saturday afternoon and evenings and Sunday mornings. Permission should not be granted to expand operational flight hours further into the weekend. Return flights can avoid Saturdays and it is unclear why there is a presumption that local benefits would benefit. If we can learn anything from climate change, it is that we must change our habits. Encouraging overseas holidays by air travel is yesterdays thinking. We should not be under any illusion that arguments put forward today for expanding air travel and airports based on clean net-zero are unsubstantiated. Pollution from noise and fuel emissions affect health. Strength is required to support health and wellbeing of residents and businesspeople, including those in neighbouring boroughs who would be affected.
- 12.23 **Possible** is a climate action charity who are strongly opposed to the expansion plans on the grounds of both climate and local impacts. The proposed expansion would push the Airport's emissions up to 500,000 tonnes CO₂e by 2031, while even without the expansion the Airport's emissions would still increase significantly to nearly 400,000 tonnes per year. LCYs evidence makes clear that any emissions reductions from efficiency improvements would be much smaller than the increases in emissions from higher passenger numbers, and that the expansion in passenger numbers would lead to much higher total emissions. That this is totally unacceptable, given the urgent need to take action to tackle the climate crisis, and the importance of this to Londoners.

- 12.24 The 10 busiest routes from London City Airport (2022) are all reachable by train, boat or coach from London, with the furthest of these - Berlin -being possible within 12 hours by train. Businesses with employees using this airport (and other routes within the European continent) should be actively incentivising their employees to use the train for these trips and find alternative ways to connect with clients through virtual conferencing. It is also noted that a high proportion of flights from this airport are by private jets -a form of transport which is hugely polluting, extremely under-taxed, and totally unaffordable and inaccessible to most Londoners. This expansion plan would lead to increased emissions during the climate emergency. This alone is a sufficiently sound reason to reject this appeal and uphold the decision of locally elected councillors to refuse the initial planning application.
- 12.25 **Epping Forest Heritage Trust** is a charity dedicated to preserving Epping Forest. It is a hugely important ancient forest which has a number of designations. The Forest is suffering from development pressures and it would be adversely affected by the planned growth of the Airport and the increase in the numbers of flights over, and close to the Forest. Its trees, plants and animals would be impacted by the high level of airplane emissions as well as the increased levels of noise. The planning expansion would also contribute to climate change which is already negatively impacting the ecology of the Forest with changes in weather patterns.
- 12.26 The **Canary Wharf Group** manages and owns interests in approximately 8 million square feet of office space, 1.1 million square feet of retail space and over 2,200 apartments. Over 150,000 people live within a one-mile radius of One Canada Square, and the residential population in Canary Wharf is over 3,500. Part of this success can be attributed to the location of London City Airport. The ease of access to international markets from the Docklands airport has been a contributing factor in major multi-national organisations locating in Canary Wharf. There is also a growing residential population in the estate.
- 12.27 LCY's proposals to increase its hours, and with this generate additional destinations, would support the growth and success of Canary Wharf. The continued growth in terms of passenger numbers, can unlock sustainable growth and more local employment opportunities.
- 12.28 Growth to 9 million passengers a year can be delivered without requiring any additional infrastructure and the same number of permitted movements. These proposals would provide significant economic benefits to the local boroughs and would support sustainable growth in East London and the UK economy as a whole. Also supported are the thousands of additional local jobs the proposals would create as well as funding contributions towards better local transport for residents through a dedicated fund. Please support these plans to unlock the potential of Newham, Tower Hamlets and the east of London as a whole.
- 12.29 **Business LDN** is a campaigning business membership organisation consisting of over 170 members spanning a wide range of economic sectors. Its mission is to make London the best city in the world in which to do business, working with and for the whole UK. Increasing the annual number of permitted flights would have a positive impact and is forecast to add over £700 million annually to the London economy. This additional economic

growth would create over 2,200 London-wide jobs and over 1,800 jobs for local people in an area of significant deprivation – a tangible example of the private sector helping to level up regions and unlock local economic growth. Overall, the plans would yield significant economic benefits for local communities and commitments to improved environmental performance are at the heart of the proposals. Business LDN firmly supports this appeal and the proposal going ahead.

- 12.30 **East London Business Alliance (ELBA)** support the application that would help create more than two thousand jobs, would bring significant economic benefits to East London and the local areas around the Airport and contribute substantially to London's economy. LCY has been a long-standing partner of ELBA and the group has seen the positive impacts the Airport has had in the community.
- 12.31 LCY has maintained a strong commitment to having as many of their workforce as possible from local East London boroughs. LCY has also supported local young students in developing their career aspirations and has created a major annual STEM careers event which is very popular. LCY is also active in supporting organisations through the Community Fund and the increase of £3.85m over ten years would be hugely beneficial. The proposed changes are likely to create additional choice with connections to new destinations, contributing towards levelling up both in London and across the country. An improved airport would also deliver further jobs across London through its supply chain.
- 12.32 **Excel London** hosts over 400 events each year with 40,000 exhibiting companies and over four million people from across the globe attending. These events are responsible for delivering £4.5 billion in economic impact for London, supporting 37,600 jobs and driving 25% of London's inward business tourists. This is in a large part enabled by the access to strong transport links both locally - with the connectivity delivered through the DLR, Elizabeth Line and wider TfL network - and more widely with the links the Airport provides to the UK and across Europe. This transport and connectivity network is key to Excel London's success and maintaining competitiveness in a global market.
- 12.33 The proposals would drive further business investment into East London and would support commitments to creating high quality jobs for local people, supporting the growth of an even more vibrant and successful community. Excel London has had a strong working relationship with London City Airport over the last two decades and the key role LCY plays in supporting local communities is recognised and valued. We strongly believe that local employment generated by these proposals, coupled with our own commitments to local job creation, would help to create ever more vibrant communities and continued growth in East London.

Individual representations

- 12.34 **Apsana Begum MP** for Poplar and Limehouse objects to the proposals, noting that many constituents that live in the flightpath of the Airport have written expressing concerns about the proposed expansion to the Airport's operations. These concerns include:

- An increase in noise pollution as a result of the extra 6-7 hours of flights on Saturdays and the 3 extra flights during the first half hour of operation. My constituents report that this noise would affect their sleep, health and general quality of life
- An increase in air pollution as a result of the increased flights paths and flight times and the associated airport operations
- An increase in carbon emissions as a result of the increased flight numbers, bearing in mind that London Borough of Newham Council declared a Climate Emergency in 2019

The impacts on the living standards of those living within the flightpath of the Airport should be considered in this appeal.

- 12.35 **Councillors Louise Krupski, Jo Blackman, Barry Mugglestone, Aiden Smith, Mete Coban MBE, James McAsh and Clyde Loakes** for London Borough of Lewisham object to the proposals. The extension of operational hours would remove a significant period of respite from noise enjoyed by residents throughout those Boroughs affected. The additional night-time movements proposed exacerbate concerns around respite. It is unclear from the proposals the composition of the aviation movements and why the proposals would serve as a catalyst for introduction of new generation aircraft which would in any event be undertaken over the passage of time. Noise monitoring is not included in Boroughs not directly adjacent to the Airport. It is also unclear why a significant increase in the cap for delayed arrivals and departures is sought. The submission remains silent upon the psychoacoustical of residents affected by the proposals.
- 12.36 **Councillor Larry Ferguson** for Thamesmead East, Bexley objects to the proposals. Whatever kind of property people live in throughout many parts of Thamesmead, it's difficult to hear a television, radio or even hold a conversation if doors or windows are open when planes fly past. Things are hardly any better if doors and windows are shut, never mind being outside when an aeroplane thunders by. Such a level of noise pollution is very distressing for many residents, and something any modern-day society should strive to avoid. These proposals, contrary to the claims made by the Airport's owners and public relations executives, would make an already unbearable situation worse.
- 12.37 The mitigation put forward by LCY for an increased number of flights is that a new generation of planes would be cleaner and quieter than those presently in use. But no matter how good aviation technology is or may become, there is a limit as to how quiet aircraft can be. Research carried out by HACAN East shows that quieter planes would make little or no difference to the noise levels heard by most people. Airplanes, laden with passengers or cargo and jet fuel, that use the Airport weigh a considerable amount and require a great deal of engine thrust to fly. This, inevitably, generates a lot of noise. The inescapable conclusion of all of this is that plans which worsen residents' environmental conditions, are often foisted on people in poorer, more deprived urban areas like north Bexley and Newham. It's assumed such places have the least political clout or would only be able to muster minimal resistance. The Airport is badly located because it was built in the middle of thousands of residential homes. While it is a large regional employer with ambitions to expand, create more jobs and achieve greater profits, that can't

be allowed to happen at the cost of increasing intolerable levels of noise pollution and a drastic worsening in the quality of life for nearby residents.

- 12.38 A significant number of **other individual representations** were made. The majority of these were in objection to the proposal. The principal concern related to noise, with specific emphasis on the loss of the Saturday afternoon respite period. The concentrated flight paths which were introduced in 2016 make the effects worse. Many considered that the new generation planes are only a few decibels quieter and would not offer respite for residents.
- 12.39 There were also objections in terms of air quality from emissions from additional aircraft. Newham has some of the highest levels of particulate matter and nitrous dioxide in the Country which breach WHO guidelines. Air pollution is also a major cause of premature death in the UK. There is a ULEZ ban across all of London and these proposals run counter to that.
- 12.40 Related to noise and air quality concerns, health effects were also raised, including effects on vulnerable groups such as children and the elderly. Sleep effects, cardiovascular disease, and stress were all identified. Newham has some of the highest recorded levels of asthma.
- 12.41 A number of representations queried the need for the Airport to expand, in light of reduced demands after the COVID-19 pandemic. Other airports can better accommodate any need and there are 5 other airports in easy reach of London. The opening of the Elizabeth Line also makes Heathrow easily accessible.
- 12.42 There were a number of objections relating to the effect of aviation carbon emissions, in light of the climate crisis. The proposals run counter to LNB and a number of other London boroughs declaring a climate emergency. There was scepticism about the ability of meeting net zero carbon targets by 2050.
- 12.43 Concerns were also raised about surface access by private car, and the impacts upon local residents in the vicinity of the Airport. Reference was also made to the severe house crisis in London with the Airport being a detractor. General feeling was that the main benefits would not be realised by those most affected by the harms from the Airport and that jobs and revenue gains are overstated.
- 12.44 Support for the scheme focussed around benefits of local investment and wider benefits to economic growth, tourism, job creation and capitalising global connectivity. The acceleration of the use of cleaner quieter aircrafts is beneficial and people would adapt to the noise so it would no longer be a disturbance. The Airport is an asset which reduces the need to travel to further away airports and relieves pressure on the wider transport aviation networks.

13. CONDITIONS AND PLANNING OBLIGATION

Conditions

- 13.1 Conditions were discussed at the Inquiry and finalised based on those discussions.²⁴⁶
- 13.2 The CADP1 permission is extant and many of the physical works associated with that permission have taken place. While the appeal relates to disputed conditions, should the appeal be allowed, a new permission would be granted which is separate from the original permission. A number of conditions attached to the original CADP1 permission remain valid and necessary and will need to be reimposed so that any new permission will not be unfettered.²⁴⁷ With that in mind, all of the CADP1 permission conditions were reviewed at the Inquiry. Where the conditions have been discharged, for example where further information was required in the form of additional plans or a study, the conditions have been amended to reference the submitted plans and the Council's reference number, for clarity.
- 13.3 For reference, a schedule of discharged conditions is available on the Inquiry website,²⁴⁸ as well as details of the discharged conditions 1-96 which includes the approved document and the discharge of condition decision notice.
- 13.4 Due to the nature of the application and appeal, there was a debate over the first condition which relates to the standard time limits for implementation of any permission. This was an issue raised by the Inspectors. In response to this, a note was produced²⁴⁹ setting out the legal background and position of LCY and LBN. We return to this matter later in our report.

Planning Obligation

- 13.5 A S106 Agreement dated 27 April 2016 was entered into as part of the CADP1 Permission. The S106 Agreement has subsequently been varied a number of times. As part of this proposal LBN and LCY have entered into a Deed of Variation (DoV) dated 26 January 2024.
- 13.6 The DoV secures a commitment to only allowing new generation aircraft operating in any newly extended hours on a Saturday as well as the three additional flights in the first half hour of the day; An enhanced SIS; an enhancement to LCY's Community Fund; Commitments to contribute to LCY's initiatives to reduce carbon emissions from airport buildings to zero; Commitment to develop and implement a monitoring regime for UFPs; Target to achieve 80% of passenger journeys by sustainable modes by 2030 as well as a new Travel Plan; Establishment of a new Sustainable Transport Mode; and further investment in education, training and employment.
- 13.7 A copy of the completed DoV is available on the Inquiry website.²⁵⁰ We return to an assessment of the DoV later in our report.

²⁴⁶ The final set of conditions are dated 12 January 2024 and can be accessed at [Conditions - Gateley \(gateleyhamer-pi.com\)](https://www.gateleyhamer-pi.com) These supersede the sets of conditions at CD11.3.1-11.3.4.

²⁴⁷ In accordance with the NPPG paragraph: 040 Reference ID: 21a-040-20190723

²⁴⁸ [Conditions - Gateley \(gateleyhamer-pi.com\)](https://www.gateleyhamer-pi.com)

²⁴⁹ INQ31

²⁵⁰ INQ30

14. INSPECTOR CONCLUSIONS

References to earlier paragraphs in this report are in square brackets [].

Noise

Introduction

- 14.1 Aviation noise and the impact that it has on people living near airports and under flightpaths is a matter which is fully recognised within national aviation policy, including the APF, MBU, FTTF, and the OANPS. [6.16-6.20 & 6.26-6.27] It is also a matter which is encapsulated within relevant development plan policies in the LP and the NLP as well as there being more general reference to noise effects in the NPPF and the NPPG.
- 14.2 There is also a raft of studies on noise and aviation noise, including those studies published by the CAA²⁵¹ and by the World Health Organisation (WHO).²⁵²
- 14.3 The effects of noise from aircraft on the community go to the heart of this appeal. It is the sole remaining reason for refusal and specifically relates to air and ground noise impacts from the additional morning and Saturday afternoon flights. At the Inquiry, the main focus in contention specifically related to the Saturday curfew, with little evidence presented on the additional morning flights.²⁵³
- 14.4 However, there is a considerable, and indeed a commendable, amount of common ground between LBN and LCY, as set out in the SoCG,²⁵⁴ and summarised in section 7 of this report. This includes agreement on detailed matters such as methodology, indices, thresholds of SOAEL and LOAEL, the study area and the assessment of significance within the ES [7.3.1-7.3.6]. Mitigation is also not contentious [7.3.8]. Due to the introduction of quieter planes, it is also broadly agreed that there will be a reduction in daytime noise, and that the 57dB contour area will be reduced overall compared to 2019 [7.3.7, 7.3.9-7.3.10]. This is all agreed between LBN and LCY, with the exception of the introduction of flights on a Saturday afternoon.
- 14.5 In their role as a R6 party, while HACAN East agree with LBN's case, they have also taken a broader view in terms of impacts of people living outside of the agreed study area and in terms of mitigation [10.36-10.37].
- 14.6 Aviation noise is a complex, technical subject. Before coming to our assessment of the effects, there are some broad matters which need to be addressed.

²⁵¹ Including three Survey of Noise Attitudes studies in 2014 on Aircraft Noise and Annoyance (CD3.7.04) (SoNA) and on Aircraft Noise and Sleep Disturbance (CD3.7.5) and a further analysis on this (CD3.7.30).

²⁵² CD3.7.12, CD3.7.11 and CD3.7.06

²⁵³ It should be noted, however, that a number of the written representations for the appeal, and some oral presentations did uphold the objection to the early morning additional flights on account of noise.

²⁵⁴ CD11.2

Nature and scope of the application

- 14.7 Firstly, it is important to have a 'sense check' in terms of the host permission to which this s73 appeal relates. This is a matter which was in contention between LCY and LBN [8.13-8.17 & 9.1-9.6].
- 14.8 S73(2) requires only consideration of the question of what conditions a grant of planning permission should be subject to. If the appeal is allowed, a new permission will be created and the original permission remains extant and unaltered (along with the conditions attached to it). If it is considered that the disputed conditions are reasonable and necessary, then the appeal should be dismissed. If it is considered that some conditions should be amended or removed, but that others remain reasonable and necessary, permission can be granted to reflect that.
- 14.9 The CADP1 permission contains several conditions to address noise effects at the Airport. These include, amongst other things, a noise contour cap, a noise quota count system (QC), aircraft movement limits, operating procedures, ground noise controls [8.174].
- 14.10 These were clearly considered at the time CADP1 was approved to meet the tests in the NPPF, including whether they were reasonable and necessary.²⁵⁵ In making their case for that scheme, LCY made it clear that there was a comprehensive mitigation package, including a large package of noise mitigation measures, with (amongst other things) the 24-hour period of closure over the weekend.²⁵⁶
- 14.11 The Inspector and ultimately the SoS were satisfied that the measures would ensure that any adverse noise impacts of the development would be appropriately managed to ensure that the proposal would not result in any significant unacceptable harmful effects on living conditions of local residents.²⁵⁷
- 14.12 That is not to say that LCY are incorrect in pursuing a s73 application and appeal relating to a number of the CADP1 permission conditions. S73 is merely one way of LCY seeking to grow and adapt its operations for the future and is a legitimate approach. A substantial amount of detailed evidence and a new ES has been submitted in support of the amendments, including (but not limited to) updated evidence on noise, need, and mitigation proposals. Based on the updated evidence before the Inquiry, there is more than sufficient material to assess whether the disputed conditions are reasonable and necessary as part of a s73 application/appeal. It is on this basis that we make our recommendation.

Is London City Airport unique?

- 14.13 The number of noise controls in place historically, and most recently conditioned as part of the CADP1 permission, are specific and unique to the Airport, something which LCY acknowledge [8.175]. This can be readily

²⁵⁵ NPPF para 56 (INQ18)

²⁵⁶ CD7.8, paras 36 and 37 of the Inspectors report.

²⁵⁷ Ibid, para 282 (Inspector Report) and para 19&20 SoS decision.

appreciated when comparing recent comparable airport expansion proposals which do not have the same amount of controls placed on them, due to their particular circumstances.²⁵⁸ More specifically, no other major UK airport has such restrictive opening hours including a restriction on night flights and a weekend curfew.²⁵⁹

- 14.14 In broader terms, the Airport has other unique features such as a short runway and a steep approach angle which limits the type and size of aircraft which can use it. The flightpaths also involve a long level flight segment at 2000ft during easterly operations [10.44]. Since 2016 the Airport has also been subject to the concentration of its flight paths, a matter outside of the control of the Airport, but one of which has added to the level of public concern over noise. [10.45, 11.8, 12.10, 12.38]
- 14.15 The Airport originally developed as a STOLport [3.1]. In light of its location near to Canary Wharf and the City, the Airport has experienced many phases of expansion and growth. It is also historically known for having a significant share of the business travel market, in comparison to other airports.
- 14.16 That has evolved over time with the Airport also now being used for leisure travel. Business travel made up 46% of passenger demand at the Airport in 2019 [8.56]. This has since been affected by the COVID-19 Pandemic and, in the first half of 2023, the recovery of business demand reached 67% of 2019 levels.²⁶⁰ Overall recovery to pre-pandemic passenger levels at the Airport are at 66% of 2019 levels, and are currently lagging behind that at the other London airports, which have reached 89% of 2019 passenger levels in the rolling year to the end of August.²⁶¹
- 14.17 While Heathrow, Birmingham and Manchester have greater population counts within their noise contours [8.173], this area of East London has a high level of population in the general vicinity of the Airport. The very name of the Airport gives a clue to its more central location and the area is set to grow substantially through its designation as an Opportunity Area, earmarked for some 30,000 new homes [8.3]. It is also located in an area that is amongst the 20% most deprived in the UK and is close to significant areas within the 10% most deprived areas with very high levels of deprivation.²⁶²
- 14.18 It is a well-founded principle that each planning application and appeal must be determined based on its own merits. Each application presents its own unique set of circumstances, and this appeal is no different. In this regard, all airports and airport developments are different to one another.
- 14.19 In terms of whether London City Airport itself is unique, there are a distinct set of constraints which have led historically to the imposition of a great number of noise conditions, to protect residential amenity. There are certainly key physical, operational and geographical factors which are distinctive to the

²⁵⁸ For example at Stansted, Luton and Bristol Airports.

²⁵⁹ Other London Airports at Gatwick, Stansted, Luton and Heathrow are all permitted to open 24 hours a day, seven days a week (with Heathrow having a voluntary curfew on scheduled long-haul arrivals before 0430 and scheduled departures before 0600.

²⁶⁰ Louise Congdon PoE, page 20, para 4.2.6

²⁶¹ Ibid, page 20, para 4.2.2

²⁶² Sean Bashforth PoE, page 7, para 2.20.1

Airport. However, this uniqueness will not create a planning harm in itself; it is still necessary to consider matters in the round based on the evidence.

Forecasting

- 14.20 We deal with forecasting more fully later in this report. However, for the purpose of noise effects, and while there was some disagreement as to the precise timescale for growth, LBN and LCY agreed that there will be the potential for the Airport to grow to 9mppa over time [7.2.1]. The data in the ES is therefore acceptable to undertake our analysis.

Curfew versus Respite

- 14.21 There was a debate in terms of the terminology used in considering the current restrictions on weekend flying relating to whether the current 24hr limit on operating hours constitutes a 'curfew' or 'respite' [8.157]. LBN, HACAN East as well as many local residents use the terms interchangeably.
- 14.22 This is a particularly nuanced argument put forward by LCY on the basis of terminology in various aviation policy documents.²⁶³ In our view, a common sense reading of these documents is that a curfew period, such as the one currently in place at the Airport, in itself gives local residents predictable periods of respite. They are intrinsically linked. Of course, there are also other different 'respite' measures available to airports to use, such as using different operation modes, but that will not preclude the current operating restrictions also being considered as giving respite to affected communities.
- 14.23 Critically, this point is inconsistent with LCY's own case as the ES itself identifies the hours when the airport is closed as being respite. This includes the night-time closures as well as the weekend 24hour period.²⁶⁴ It is also noted that the Government's Air Navigation Guidance defines noise respite as "*the principle of noise respite is to provide planned and defined periods of perceptible noise relief to people living directly under a flightpath.*"²⁶⁵ The existing curfew period is clearly a planned and defined period of 24 hours over every weekend and gives such respite.
- 14.24 LCY now seek to make this distinction as they consider that a curfew is a ban which creates a cost on industry, as an almost complete loss of socio-economic and consumer benefits from flights during the curfew hours. The APF recognises that noise mitigation should be proportionate and such actions should not impose unlimited costs on industry. We come to deal with this specific point later in our report, and for consistency we adopt the term curfew, however, the SoS can be satisfied that references in the written evidence to respite in practical terms mean the same.
- 14.25 A further point on this matter relates to the claim by LCY that alternations between easterly and westerly operations offer respite. On average, the Airport operates 30% of the time in easterly mode and 70% in westerly

²⁶³ See Richard Greer PoE section 3.5 for detail including 3.5.12 which sets out the distinction between the two terms.

²⁶⁴ CD1.15, page 8-52, paras 8.6.88-8.6.90

²⁶⁵ CD3.5.09 Annex A

mode. The easterly mode operations are considered by HACAN East and local residents to have a particularly big impact on communities in terms of noise, however LCY held that due to this not being the predominant route, that equates to around 70 additional hours of respite.²⁶⁶ However, under the definition, 'respite' should be planned and predictable, whereas these operations relate solely to weather patterns and are unpredictable [10.44].

The approach to the noise assessment

- 14.26 The broad methodology for the assessment of noise effects in the ES²⁶⁷ is considered to be a sound one. In brief, it uses the $L_{Aeq,T}$ metric which is a standard assessment approach which follows Government guidance.²⁶⁸ A range of other supplementary metrics are also used, these include:
- Single mode contours (L_{Aeq}), westerly and easterly;
 - Number of people likely to be highly annoyed;
 - Number of people likely to be highly sleep disturbed;
 - Day, evening, night contours (L_{den});
 - Night noise contours (L_{night}); and,
 - N_x and L_{Amax} noise contours.
- 14.27 The assigned noise levels to LOAEL and SOAEL for each noise source is in line with established guidance and practice [7.3.4].²⁶⁹ For both day and night-time, the UAEL has also been assessed.²⁷⁰
- 14.28 The corresponding study area is based on the noise contours at the LOAEL level. This extends up to 7.5 km to the east, 7.5 km to the west, 5.5 km to the north and 2.5 km to the south of the Airport runway, however it is noted that for some of the supplementary metrics, the modelling extends beyond the study area [7.3.5].
- 14.29 The change criteria applied is also in line with standard practice, with a value of 3dB in between the LOAEL and SOAEL and 2dB above the SOAEL. In line with the recent Luton s73 SoS decision,²⁷¹ sensitivity analysis was also carried out adopting a 1dB change criterion above the SOAEL.
- 14.30 It is important to note that the LOAEL and SOAEL values as well as change criteria are established and based on significant bodies of research including from the WHO, and the CAA. This includes through the abovementioned SoNA studies and other social surveys.

²⁶⁶ Richard Greer PoE, page 48, para 7.2.20

²⁶⁷ CD1.15

²⁶⁸ The noise levels are effectively averaged. While it is recognised that communities do not experience aircraft noise in an average manner [10.49] the APF, supported by SoNA support use of this metric and concluded that it represents the most appropriate one to use.

²⁶⁹ There is a slight difference at the Airport in the L_{Aeq} period for reporting with inclusion of the period between 0630-0700 in the daytime index, as opposed to the usual nighttime index, however this is agreed that it would not have any particular bearing on the results [7.3.3].

²⁷⁰ However, as no one is forecast to be exposed to levels above the UAEL threshold for either day or time noise as a result of the proposals and thus this need not be considered further at this time [8.161].

²⁷¹ CD8.06

- 14.31 These all feed into a comparison of the core operational scenarios at the Airport – in the DM and DC Scenario. This is against the 2019 baseline (as a pre-pandemic level) and for 2025, 2027 and 2031. The assessments of the DC Scenario also take into account embedded mitigation, which is discussed later in this report.
- 14.32 Concern is raised by HACAN East [10.46-10.57] regarding the reliance on primary metrics. While the focus must be on the primary $L_{Aeq,T}$ metric in accordance with aviation noise policy, the ES itself recognises the benefits of the additional metrics. Based on these other standard metrics, we are satisfied that the ES does give enough information to be able to take a rounded view on noise effects in this regard.
- 14.33 HACAN East also raise concern regarding under counting future populations from permitted developments [10.49]. The ES itself recognises this issue. In addition, as previous stated, the area is set to grow substantially as part of the LP, NLP and the OAPF. However, the ES has been assessed on the best available data on this matter at the current time and is thus acceptable.

Weekend Daytime Metric

- 14.34 One feature of the ES is a further, non-standard metric which has been developed specifically by LCY in order to consider the proposed change to the curfew, i.e. the proposal to fly planes on Saturday afternoons. This was developed as an assessment based on noise over the whole 92-day summer period and is not considered to fully encapsulate the impacts of this proposed change.
- 14.35 This metric was developed to provide some focussed data and evidence to assist in the assessment of this very specific change. Effectively it provides an increased focus on the proposed changes in the curfew over a 48hour period to specifically rate the impacts of weekend air noise. It has been developed in a consistent fashion to the standard primary metric as it uses the $L_{Aeq, 16h}$ metric and applies the same criteria regarding absolute noise levels (LOAEL and SOAEL) and the same change criteria. The ES recognises its limitations and that there is no specific policy or guidance on how changes in weekend noise should be interpreted.
- 14.36 This metric was created in good faith by the Airport, and indeed it was scoped into the ES and the general principle was supported by LBN at that time. However, we are mindful that there is no validated technical test for assessing the effect of ending a curfew at an airport. As pointed out by LBN, noise indices of any kind are only of use if they are linked to the results of noise and social surveys.²⁷² That is the essence of how the established standard metrics have come into being.
- 14.37 No local survey work was undertaken by LCY to support the weekend metric, albeit it is noted that this wasn't specifically requested by LBN.²⁷³ However, should this have been undertaken, it is accepted that there would be challenges in relying on local survey work. To be more reliable and robust,

²⁷² Rupert Thorney-Taylor PoE, page 34, para 7.2.3

²⁷³ Richard Greer PoE, page 76, para 11.3.22

ideally any such survey work should not be linked to a specific development proposal which could have the effect of skewing recorded annoyance levels, when compared to more general survey work on annoyance and impacts of aviation noise on community more generally. In this regard, it is understandable why this work was not undertaken to accompany the metric in the ES by LCY as it would have been intrinsically linked to the development proposals, rather than a broader testing of the new metric.

- 14.38 The existing SoNA survey work published by the CAA is the closest thing there is by way of a neutral and broad assessment. This includes all the London airports and community surveys were undertaken at Heathrow²⁷⁴ which has a voluntary night-flight ban and respite for westerly operations by runway alternation. However, this does not particularly assist in filling in the gaps for the interpretation of the weekend metric, as this body of work does not specifically deal with curfews. The operating conditions are also markedly different at Heathrow, even with its curfew and respite measures.
- 14.39 On the weekend metric, the ES also notes that it is *"....considered to be a conservative approach, as any noise level or change in noise level experienced for only two days a week must inherently have a lesser impact than the same noise level or change in noise experienced seven days a week."*²⁷⁵ As a broad statement, this is correct. However, we disagree with this statement in this context as the metric was designed to assist in the assessment of the reduction in curfew and the conflation of this with changes across the week is unhelpful. It should not therefore be assumed as a conservative approach in the way suggested.
- 14.40 Taking the above together, the reliability of this metric within the ES has considerable uncertainty. That is not to discount the noise assessment in the ES, but a degree of care and caution must be heeded in analysing the results.

Embedded Mitigation

- 14.41 The ES assessment has factored in what has been termed as 'embedded mitigation.' This is a package of measures which LCY consider represents best practice noise control at the Airport, while allowing for growth and an increase in passenger numbers to 9mppa.
- 14.42 Effectively, should the appeal be allowed, many of the existing controls will be retained, and as per the terms of the application and this appeal. However, matters such as aircraft movement limits, restrictions on airport operating hours, noise contour area limits, SIS and community fund will all change.²⁷⁶
- 14.43 Central to the noise case of LCY, an important facet of the embedded mitigation is a new control at the Airport in the form of an additional condition. This will limit the use of the proposed new operating hours by quieter new generation aircraft. The future numbers of re-fleeted aircraft and

²⁷⁴ As well as Gatwick and Stansted.

²⁷⁵ CD1.15, page 23, para 8.3.101

²⁷⁶ These are set out in some detail within section 8.5 of the ES (CD1.15) and a helpful summary is provided in para 6.2.1 of Richard Greer PoE.

their in-service noise performance is fully factored into the DC Scenario within the ES.

- 14.44 In general, mitigation is a matter of agreement between LCY and LBN [7.3.8]. However, the cited noise benefits of new generation aircraft were questioned by HACAN East [10.52-10.66].
- 14.45 Technological advancement has meant that newer aircraft are quieter than older generation planes. This is established in certification tests, albeit real life conditions can produce more varied results. With two exceptions, most of the aircraft types in the future forecast already operate at the Airport and were therefore included in the ongoing noise contour validation. The assessment of these were undertaken at established noise monitoring terminals, which are within the LOAEL contour within the final stages of arrivals and the primary climb out, as these are the noisiest activities [8.221].
- 14.46 HACAN East have undertaken their own Citizen Science Survey (CSS) of the overflight noise from new and old generation aircraft.²⁷⁷ This is a study which was commissioned by HACAN East members in the context of these expansion plans at the Airport and has adopted a thorough study design, methodology and measurement protocol, so as to be robust. The CSS concludes that the noise benefits from new generation aircraft are not as great as claimed and that the differences in sound are on average 1.7 dB as per established change criteria, is considered not to be significant [10.60].
- 14.47 Turning to the question of whether this study casts doubt on the ES assumptions and modelling of the DC Scenario contours, the burden is on LCY to demonstrate that the proposed embedded mitigation is as effective as claimed [10.57]. The measuring of aircraft noise at points under the level flight paths is an interesting area of work. Indeed, it is also one of which LCY has sought to address through their own survey work²⁷⁸ as well as citing a commitment to commission further work in the future [8.219].
- 14.48 However, the applicability of the CSS work, and indeed LCY's own study to the ES modelling is currently limited. The data not established enough to properly understand the trends at this time.
- 14.49 Moreover, and in line with best practice, the noise data that is used in the ES to enable the assessment of new generation aircraft is focussed within the LOAEL contour. HACAN East's case is primarily related to noise effects outside of the study area and accordingly, the focus of the CSS study was outside of the LOAEL contours. The measurements collected from locations under level flight as part of the CSS therefore have no bearing on the modelling that underpins the size of the contours. It is also notable that this position is effectively also confirmed by LBN's noise expert [quoted at 8.216].
- 14.50 Accordingly, while there may be variances outside of the LOAEL, and while future work may have a place in noise modelling in the longer term, we are

²⁷⁷ CD3.7.20

²⁷⁸ The Bikerdike Allen Aircraft Noise Survey of Overflight Measurements at CD3.7.55

satisfied that the inputs into the modelling on this matter are broadly sound.

Air and Ground Noise Effects

Introduction

- 14.51 Taking all of the above into consideration, we come now to the assessment of the noise effects. As previously stated, there is a remarkable amount of common ground between LCY and LBN in terms of the effects of noise [7.3.9-7.3.10]. Underpinning the conclusions in the ES is the use of quieter new generation aircraft which is considered to largely offset the impact of additional aircraft.
- 14.52 It is, however, important to set out the detail which lies beneath this, to enable a full analysis. The ES presents full sets of data which the SoS should have regard. However, for the purposes of this report, we have focussed on the 2019 baseline and the 2031 DC and DM scenarios as 2031 in the ES. This is because this is when it is anticipated that the Airport will be operating fully in terms of the Proposed Amendments sought.²⁷⁹
- 14.53 The ES also includes permitted development in the analysis between the DC and DM scenarios, however, where 2019 is compared for context, the permitted developments have been excluded to allow for a like for like comparison. For clarity, we have set out the population figures from the ES for both scenarios, i.e. including and excluding permitted development.
- 14.54 Notwithstanding our findings in respect of the applicability of the weekend metric, this, along with the other supplementary metrics, have also been considered in our assessment, in addition to the primary metric.
- 14.55 Finally, the focus of the analysis is on air noise, but ground noise at weekends was also a concern by LBN and accordingly this is reflected and discussed below.

General Data

Primary Metric

- 14.56 The ES sets out air noise exposure levels and relative change for 12 locations around the Airport.²⁸⁰ For all of the locations, the daytime noise levels are predicted to be quieter in 2031 than from the 2019 baseline. However, marginally higher noise levels are predicted in the 2031 DC Scenario, than the DM Scenario. This is due to the greater difference in ATM's between the two scenarios in 2031, which are not fully offset by the use of quieter new generation aircraft.
- 14.57 In terms of the contour sizes, the area of all of the contours will reduce from the 2019 levels in the DC Scenario.²⁸¹ The table also shows that the 57dB

²⁷⁹ The Airport is forecast to grow to its current passenger limit of 6.5mppa by 2031 under the DM scenario and to 9mppa by 2031 under the DC scenario.

²⁸⁰ CD1.15, page 45, Table 8-29

²⁸¹ Table taken from ES Table 8-22

contour will remain below the current contour limit of 9.1km.²

Air Noise Contour Area $L_{Aeq, 16h}$ Average Mode Summer Day			
Contour dB $L_{Aeq, 16h}$	Contour Area km²		
	2019	2031 DM	2031 DC
51 (LOAEL)	26.7	21.4	22.7
57 (Contour area limit)	8.7	6.7	7.2
63 (SOAEL)	2.3	1.8	1.9

- 14.58 Correspondingly, in terms of population counts, the number of people within the contours is reduced from 2019 in the 2031 DC Scenario:²⁸²

Air Noise Population Count $L_{Aeq, 16h}$ Average Mode Summer Day					
Contour dB $L_{Aeq, 16h}$	Number of people				
	2019	Permitted Development excluded		Permitted Development included	
		2031 DM	2031 DC	2031 DM	2031 DC
51 (LOAEL)	205,300	154,900	160,000	295,300	302,250
57 (Contour area limit)	51,500	34,950	37,550	75,450	81,050
63 (SOAEL)	5750	2300	2550	7600	8600

- 14.59 For non-residential receptors, the results are as follows:²⁸³

Air Noise non-residential $L_{Aeq, 16h}$ Average Mode Summer Day			
Contour dB $L_{Aeq, 16h}$	Number of non-residential receptors		
	2019	2031 DM	2031 DC
Schools >52 dB	87	62	64
Healthcare >52 dB	1	1	1
Amenity Areas >55 dB	103	60	66

- 14.60 However, for all of these, under the DC Scenario, the contours will increase slightly in area and contain correspondingly more people and more schools and outdoor amenity. Again, this is due to the greater difference in ATMs between the DC and DM Scenarios, which is mostly offset by the shift to quieter, new generation aircraft. The 2031 DC Scenario contour areas and population counts, however, generally remain well below 2019 levels.
- 14.61 In summary, using the primary metric, for daytime noise the ES concludes that by 2031, marginally higher noise levels are predicted in the DC Scenario than the 2031 DM Scenario due to the greater difference in forecast ATMs between the two scenarios in 2031, which is not fully offset by the impact of

²⁸² Table taken from ES Table 8-23 (excluding permitted development) and ES Table 8-53 (including excluding permitted development)

²⁸³ Table taken from ES Table 8-24

quieter new generation aircraft. However, because the change in noise would be less than 2dB, the ES concludes that the changes would have a negligible impact.

- 14.62 A similar picture is found for the results for the night-time contour and population counts under the $L_{Aeq, 8h}$ assessment.²⁸⁴

Air Noise Contour Area $L_{Aeq, 8h}$ Average Mode Summer Night			
Contour dB $L_{Aeq, 8h}$	Contour Area km²		
	2019	2031 DM	2031 DC
45 (LOAEL)	4.5	7.1	7.3
55 (SOAEL)	0.5	0.2	0.3

Air Noise Population Count $L_{Aeq, 8h}$ Average Mode Summer Night					
Contour dB $L_{Aeq, 8h}$	Number of people				
	2019	Permitted Development excluded		Permitted Development included	
		2031 DM	2031 DC	2031 DM	2031 DC
45 (LOAEL)	19,300	25,750	26,500	56,200	55,200
55 (SOAEL)	0	0	70	0	70

- 14.63 The 2031 DC Scenario contours and population counts are larger than those for 2019 due to the increase in night-time movements, which is mostly offset by the increased use of quieter new generation aircraft. They are marginally larger than the 2031 DM Scenario when excluding permitted development, but including permitted development there will be a slight decrease in the total number of those people adversely affected by air noise. By 2031 70 people will be exposed to night-time noise levels above the SOAEL. These people are all located in the Camel Road area and have already been treated under the highest tier of the SIS, as they are also within the existing 66 dB $L_{Aeq, 16h}$ daytime eligibility contour.

Supplementary Metrics

- 14.64 In terms of the supplementary metrics used, L_{den} and L_{night} show broadly similar results to the primary metrics. There is an overall reduction in the highly annoyed population count from 2019, with a difference of 750 people from the 2031 DM Scenario, against the DC Scenario.²⁸⁵ Sleep disturbance is similarly set to reduce, here the 2031 DC Scenario has a lower level of people highly disturbed than the 2031 DM Scenario.²⁸⁶
- 14.65 In terms of the N65 daytime metric, it is important to understand what the events relate to:

²⁸⁴ See ES Tables 8-26-8-28 and 8-55 (including permitted development). Healthcare receptor is unchanged.

²⁸⁵ See ES Table 8-33

²⁸⁶ See ES Table 8-34

- The N65 10 event contours cover all the arrival and departure routes. For the departure routes, the contours end around where the altitude holds typically end and the aircraft resume climbing. For the arrival routes the contours end around the start of the altitude holds where aircraft temporarily stop descending. These points are different for each route and are controlled by air traffic control.
- The N65 100 event contours cover the area overflowed by both arrivals and departures.
- The N65 200 event contours are relatively small, only extending up to the dock edge in some areas.

14.66 The table below²⁸⁷ shows that the 2031 DC Scenario N65 10 event contour is slightly smaller than that for the 2031 DM Scenario, due to the increased use of quieter new generation aircraft in the DC Scenario. Whereas the N65 100 event contour for the 2031 DC Scenario is larger than that for the 2031 DM Scenario, due to the greater number of aircraft movements in the DC Scenario. The N65 200 event contours are similar for both scenarios.

Air Noise Contour Area, N65 Average Mode Summer Day			
N65 Contour Events	Contour Area km²		
	2019	2031 DM	2031 DC
10	106.7	83.3	69.3
100	12.4	12.3	16.7
200	1.1	1.4	1.8

14.67 The populations within the N65 contours broadly vary in line with the change in the areas of the contours, as would be typical.²⁸⁸

Air Noise Population Count, N65 Average Mode Summer Day			
N65 Contour Events	Contour Area km²		
	2019	2031 DM	2031 DC
10	802,800	660,200	557,100
100	78,050	81,250	120,100
200	1700	7100	8,150

14.68 For night-time events the L_{ASmax} has been calculated as N60 would not be applicable as there will be less than 10 events due to the night time restrictions at the Airport, even with the proposed additional early morning flights. This shows that the number of people exposed to 80dB L_{ASmax} at least once per night in 2031, the number of people under the DC Scenario is around 30% fewer than that expected under the DM Scenario and lower than in 2019. This is due to the greater use of quieter new generation aircraft under the DC Scenario.²⁸⁹

²⁸⁷ Table taken from ES Table 8-35

²⁸⁸ Table taken from ES Table 8-36

²⁸⁹ See ES Table 8-39

- 14.69 In terms of the single mode controls, which HACAN East say are preferable to the real-life experiences of affected residents, the ES finds that the number of people exposed between scenarios generally varies in a similar manner to the average mode L_{Aeq} contours. Noted, however, is the extension of the daytime 51dB contour under eastly operations as the contour includes the area where aircraft are held at 2,000 ft on approach. This is the same for 2019 and all future scenarios. Small parts of the 54dB $L_{Aeq,16h}$ contour are also affected for 2019 and some of the future scenarios. The 57dB $L_{Aeq,16h}$ and higher noise level contours are not affected.²⁹⁰
- 14.70 In general, and as for the primary metrics, the noise effects under the DC Scenario is expected to reduce from 2019 levels, however there will be an increase in noise between the DC and DM scenarios, although again the magnitude will be such that it will be negligible in terms of impact.

Weekend Metric

- 14.71 The ES sets out air noise exposure levels and relative change for 12 locations around the Airport at the weekend.²⁹¹ The DC Scenario results in higher noise levels than the DM Scenario as the increase in ATM's is not fully offset by the use of quieter new generation aircraft. However, all of the changes are less than 2dB and as such an overall negligible impact is given.
- 14.72 The tables below set out the results for the weekend metric for contour areas, population counts, and non-residential counts.²⁹²

Air Noise Contour Area $L_{Aeq, 16hr}$ Average Mode Weekend Day			
Contour dB $L_{Aeq, 16hr}$	Contour Area km²		
	2019	2031 DM	2031 DC
51 (LOAEL)	15.2	11.9	15.1
63 (SOAEL)	1.1	0.9	1.2

Air Noise Population Count $L_{Aeq, 16h}$ Average Mode Weekend Day					
Contour dB $L_{Aeq, 16h}$	Number of people				
	2019	Permitted Development excluded		Permitted Development included	
		2031 DM	2031 DC	2031 DM	2031 DC
51 (LOAEL)	108,600	78,750	99,850	156,750	199,950
63 (SOAEL)	750	750	1150	750	3400

²⁹⁰ The westerly mode contours are not affected, as the altitude hold for westerly approaches is 3,000ft. The quieter noise levels resulting from this greater altitude means that the contour does not extend over the area under the level section of the westerly approach.

²⁹¹ ES Table 8-29

²⁹² Taken from Tables 8-30-8-32 and Table 8-57 (including permitted development)

Air Noise non-residential Count $L_{Aeq, 16h}$ Average Mode Summer Day			
Contour dB $L_{Aeq, 16h}$	Number of non-residential receptors		
	2019	2031 DM	2031 DC
Healthcare >52 dB	1	1	1
Amenity Areas >55 dB	31	18	30

- 14.73 From the 2019 baseline, these tables show that the noise contours for the weekend will remain broadly the same and the number of people exposed to weekend noise levels at and above the LOAEL is predicted to decrease. There will be an increase in contour size over the DM Scenario for 2031 in comparison to the DC Scenario. The effect will be the same for population exposed, both excluding and including permitted development. Again, this is all based on the increase in new generation aircraft.
- 14.74 There will be an increase in people exposed to noise levels at and above the SOAEL in 2031. The ES notes that, overall, most people within the noise contours are forecast to experience a decrease in weekend noise, however around a third of people are forecast to experience an increase in weekend noise. All the forecast changes in weekend noise are less than 2dB and therefore will be rated as negligible. There will be 18 more amenity areas affected, but the change threshold will be less than 3dB and as such will be negligible.
- 14.75 In terms of supplementary metrics, an analysis of the N65 average mode weekend day was undertaken in the ES for the contour areas and the population count.²⁹³ However, these are not set out here as the weekend N65 contours do not generally vary in as consistent a manner between the DM and DC Scenarios as other metrics, and as such it is not considered particularly useful to set these out in detail in this report.²⁹⁴
- 14.76 To assist in the analysis of weekend noise matters, Richard Greer, the expert witness on Noise for LCY, also presented a table using average summer noise levels for Saturday morning, Saturday afternoon, Sunday and weekends.²⁹⁵ This was to aid the consideration of how extending the Saturday hours of operation might result in additional effects and/or differential effects compared to those that already occur on Saturday mornings, Sunday afternoons and weekdays. This is reproduced below.

²⁹³ ES Tables 8-37 & 8-38

²⁹⁴ See analysis at para 8.6.77 of the ES for some general comparisons.

²⁹⁵ Richard Greer PoE, page 77, Table 11.1

Location	L _{Aeq,T} Noise Levels [dB]											
	Saturday Average						Sunday Average				Mon-Fri Average	
	Morning 0700-1230		Afternoon 1230-1930		Evening 1930-2300		Morning 0700-1230		Afternoon / Evening 1230-2300		Day 0700-2300	
	2019	2031 DC	2019	2031 DC	2019	2031 DC	2019	2031 DC	2019	2031 DC	2019	2031 DC
Blackwall / A1261	58	57	-	55	-	-	-	-	59	57	60	58
Britannia Village	63	62	-	60	-	-	-	-	64	62	65	63
Silvertown /A1020	60	60	-	58	-	-	-	-	61	60	62	61
Custom House	58	59	-	56	-	-	-	-	59	59	60	59
Camel Road	65	65	-	63	-	-	-	-	66	65	66	66
Royal Albert Dock (north)	63	63	-	60	-	-	-	-	63	63	64	64
North Woolwich (north)	59	59	-	56	-	-	-	-	59	59	60	60
Thamesmead	60	59	-	56	-	-	-	-	61	59	61	60
Eastern Quay Apts, Britannia Village	64	63	-	61	-	-	-	-	65	63	66	64
Coral Apts, Western Gateway	62	61	-	58	-	-	-	-	63	61	64	62
Silvertown Quays	67	66	-	64	-	-	-	-	68	66	69	67
Ramada Hotel	65	64	-	62	-	-	-	-	65	64	66	65

14.77 This table shows that noise levels with the DC Scenario:

- Would be lower on a Saturday afternoon than a Saturday morning;
- Would be lower on a Saturday afternoon than a Sunday afternoon/evening;
- Would be lower on a Saturday morning and Sunday; afternoon/evening than a weekday (Monday to Friday); and,
- Would be lower on a Saturday morning, Sunday afternoon/evening and each weekday than the 2019 baseline.

14.78 It is therefore held by Mr Greer that any negative impact from aircraft noise on residential amenity would not be materially new as it already occurs. It is also noted that noise levels on a Saturday afternoon would be lower than any other time during the week or weekend. Similar conclusions are drawn by Mr Greer for activities such as use of outdoor amenity areas and venues for community gathering. We come back to this in our analysis below.

Ground Noise

14.79 In terms of ground noise, the analysis in the ES²⁹⁶ draws similar conclusions in that ground noise effects under the DC Scenario are generally greater than under the DM Scenario. Overall effects are rated as negligible to minor adverse and those receptors exposed to potentially significant moderate

²⁹⁶ Starting at para 8.6.170

increases in ground noise are within the Airport's air noise sound insulation contours and are therefore eligible for or already treated by the air noise SIS or the CSIS or were already designed with a good standard of sound insulation. Weekend ground noise levels are forecast to remain well below typical daytime ground noise levels over the whole week.

Analysis

14.80 The above section sets out the general data and based on this, the ES demonstrates that:

- The number of people adversely affected by daytime noise is expected to reduce compared to the 2019 baseline.
- The number of people exposed to daytime noise levels at or above the LOAEL, at 57dB and at or above the SOAEL would increase in 2031, when compared to the DM Scenario.
- All of the changes (both positive and negative) would be less than 2dB which would be negligible.
- ATMs would be higher in 2031 DM Scenario, as opposed to 2031 DC Scenario, but the differences would be largely (but not completely) offset due to the modernisation of aircraft fleet.
- More schools and outdoor amenity areas would be exposed to noise levels above threshold. However, the changes would be less than 3dB and as such would have a negligible effect.
- Night-time noise exposure levels are predicted to remain similar with a general reduction of people exposed at or above the LOAEL, albeit with a negligible (beneficial) impact.
- A total of 70 people would be exposed to night noise levels above the SOAEL, around the Camel Road area. This is a change from the 2019 baseline and the DM Scenario where nobody would be within this. These people would be eligible for and could all benefit from the SIS.

14.81 We are therefore satisfied that the additional early morning flights, which would increase the total flights from 6 to 9, would cause no harm in terms of noise effects. Any additional effects at that time would be mitigated in terms of the use of quieter aircraft for the 3 additional flights, as well as the enhanced SIS as part of these proposals.

14.82 The weekend metrics suggest a similar picture:

- Weekend noise levels under the DM Scenario would be expected to remain broadly similar to 2019 even with the extended operating hours.
- Weekend noise exposure levels are predicted to increase between the 2031 DM and DC scenarios, leading to an increase in the number of people adversely affected. This is due to the high number of ATM's not being fully offset by the use of modern aircraft.
- However, more people are forecast to experience a decrease in weekend noise levels than are forecast to experience an increase.
- All of the changes in weekend noise forecast to be negligible as any change would be less than 2dB.
- These results are because of the dedicated use of quieter new generation aircraft during the weekend period as embedded mitigation.

- The noise levels on Saturday afternoons would remain lower than Saturday mornings, which are in turn lower than weekdays.

- 14.83 The ES results based on the $L_{Aeq,T}$ thresholds for the 92-day period are standard and considered to be reliable. On the face of it, the results for the weekend metric are also in broad alignment and it is on this basis that LCY argues in favour of the Proposed Amendments. However, there is significant concern around the applicability and the reliability of the ES results for the weekend period, for the reasons previously discussed.
- 14.84 Specifically, the table produced by Richard Greer (reproduced above) is particularly telling. The comparison of average noise levels for the Saturday afternoon period from 2019 to 2031 DC Scenario demonstrate the change in levels from nothing at the 2019 baseline (due to the current curfew restrictions) increases at each of the 12 locations between 55-64dB. This order of change in magnitude is simply not factored into the assessments in any meaningful way and goes to the heart of the case for LBN, HACAN East and the objections of the wider community.
- 14.85 It is correct that there is no technical evidence that is capable of supporting a conclusion that the amendments would give rise to a significant noise effect [8.204]. However, we are concerned that the metrics themselves are not aligned to the fact that the Airport has a curfew period and the results do not adequately encapsulate the impacts of the proposed change. Therefore, while we cannot be sure that the amendments would result in a significant noise effect, we also cannot be sure that they would not; there is no reliable evidence to suggest that the changes would not be significant.
- 14.86 We do not seek to criticise LCY, who attempted to apply a standard metric to the weekend period to give a more sensitive analysis. Nor does it not seek to 'go beneath' the ES. This is simply new territory and there is no tried and tested metric or method of technical assessment which looks at the issue of curfew periods. It therefore has to be right that a value judgment needs to be made.
- 14.87 Drawing this together, the curfew is unique to the Airport and LP Policy D13 as well as the NPPF make clear that unreasonable restrictions should not be placed on noise generating uses.²⁹⁷ In addition, permission is not sought to remove the curfew in its entirety, but rather to amend it so that flights can take place during a Saturday afternoon. The weekend night-time and Sunday morning curfew would be maintained, along with restrictions on flights in the night-time during the working week.²⁹⁸ The commencement of flights during the Saturday afternoon period would also accelerate the transition to new generation aircraft as part of a comprehensive mitigation package.
- 14.88 However, the impacts of aircraft noise would be materially new on Saturday afternoons. This is a fundamental shift and one of which would eventually introduce 80 aircraft movements on a typical summer Saturday afternoon. This would be around 6 aircraft noise events per hour, or one every 10

²⁹⁷ The Agent of Change.

²⁹⁸ Night-time noise is also noted as a more sensitive time for noise effects and would be preserved.

minutes on average [8.209].

- 14.89 It is true that the Airport operates every day and aircraft noise already occurs and is known to local communities. But the curfew exists and was maintained under the terms of the CADP1 permission as mitigation in itself. Aircraft noise on a Saturday afternoon would be new. The addition of up to 80 movements during that period would be a significant change.
- 14.90 The Inquiry has heard how valued the curfew is to the local community in giving respite [see section 11]. Plans are made by homeowners around the curfew, particularly in terms of outdoor amenity. While other mitigation in terms of sound insulation and community funds would assist, it would not overcome this loss.
- 14.91 Much is made by LCY in terms of the total noise benefits across the week, achieved by the Proposed Amendments incentivising the transition to new generation quieter aircraft [8.206]. LCY considers that this amounts to a sharing of the noise benefits from fleet modernisation with the community through the reduction of the 57dB $L_{Aeq,16h}$ noise contour by 20% to 7.2km² and reducing overall aircraft noise throughout the week [8.253 (c)].
- 14.92 Crucially, however, the ES itself identifies those noise benefits as being negligible in terms of the magnitude of the change. We therefore consider that this position is considerably overstated.
- 14.93 It should also be noted that the ES also finds there would be an increase in noise between the DC and DM scenarios in 2031, although again the magnitude would be such that it would be negligible in terms of impact. However, the reduction in curfew would not, therefore, facilitate a reduction in total noise effects, as claimed by LCY [8.206].
- 14.94 Tangentially, LCY's noise witness advanced an argument in terms of the precedence of the removal of the Cranford Agreement at Heathrow, although this was not referenced in oral evidence and is not particularly relied upon by LCY in their case.²⁹⁹ This was a SoS decision granted in 2017 which ended a longstanding curfew on easterly scheduled departures from the northern runway at Heathrow over Cranford.³⁰⁰
- 14.95 However, that permission was never implemented and as such there is no data to assist in terms of follow-on impacts on the Cranford community. Moreover, Heathrow is a very different airport to London City. We do not consider that this case sets a precedent in terms of removal/amendments of curfews as a general principle.
- 14.96 It is important to note that the concern relates to amenity. LBN does not advance health impacts as a reason for refusal. While health effects from noise are well documented, the conclusions of the health assessment in the ES³⁰¹ are considered to be acceptable. Concern around the loss of the Saturday afternoon curfew and other noise policy matters are not relevant to the community health assessment [7.7].

²⁹⁹ Richard Greer PoE, page 72, paras 11.3.2-11.3.8

³⁰⁰ CD8.5

³⁰¹ CD1.17

Conclusion on noise effects

14.97 Overall, our findings on noise matters can be summarised as follows:

- There would be an overall reduction in noise effects from the 2019 baseline.
- Noise effects would be marginally worse in 2031, in comparison to the DM Scenario, but these are considered negligible in ES terms and thus adverse effects overall would be limited.
- However, noise benefits associated with the Proposed Amendments are also considered negligible in the ES and as such would be also limited.
- In light of the above, there would be no material harm from an increase in early morning flights.
- While we have had regard to the technical analysis of the noise effects at the weekend presented by LCY, this is unreliable. The ES assessment does not give any real clear indication of the effects of loss of the Saturday afternoon curfew period and the magnitude of impact of the loss of the curfew is not effectively captured by the analysis within the ES.
- The curfew itself is a longstanding mitigation measure for communities, which was actively preserved under the CADP1 permission.
- The existing Saturday curfew period is clearly well regarded and considered important by those who live in areas affected by aircraft noise effects.
- Average noise levels would increase from no aircraft (extant scheme) to noise levels above the LOAEL and in some cases above the SOAEL at between 55-64dB at the 12 monitoring sites on Saturday afternoons.
- The change from no aircraft noise to noise from up to 80 flights during Saturday afternoons is therefore considered to be significant.
- The extent of the loss of the curfew cannot be meaningfully quantified in a technical sense in ES terms.
- The necessary value judgement is therefore that the loss of the Saturday afternoon curfew would constitute a materially different operational noise effect from the Proposed Amendments.
- The effects would be adverse impacts on amenity specifically on the Saturday afternoon.
- The sharing of the noise reduction benefits across the whole week would be negligible.
- Other types of mitigation would assist, but not overcome the loss of Saturday afternoon curfew as mitigation.
- There would be no significant adverse impacts on health.

14.98 This leads us to the conclusion that, in noise terms, the loss of the Saturday afternoon curfew is a substantive matter which would be likely to cause harm to residential amenity. That harm cannot be fully quantified as the curfew is specific to the Airport and there is no proven metric or method of technical assessment which looks at the issue of curfew periods. Nonetheless, the introduction of aircraft noise in a currently protected period of zero flights would constitute a material impact.

14.99 In reaching this conclusion, we have not further considered the case of HACAN East in terms of noise effects below the LOAEL. As we have stated, the general approach within the ES of focussing on effects about the LOAEL is

appropriate. In any case LCY recognise that aircraft noise can be heard outside of the LOAEL contours. Our focus is on those effects within the contours and our conclusions are reached on that alone.

- 14.100 Overall, the removal of the Saturday afternoon curfew period as a mitigation measure under the CADP1 permission and replacement with other alternative mitigation measures would not fully meet the external and environmental costs. There would also be conflict with LP Policy T8 (part B), in that mitigation measures would not fully meet the environmental cost for noise. There would also be conflict with Policy D13 (part C) in that the loss of the Saturday afternoon curfew would not adequately put in place measures to mitigate and manage any noise impacts for neighbouring residents. In terms of NLP Policy, there would also be similar conflict with policies SP2 and SP8.
- 14.101 Finally, there would also be some conflict with the NPPF (paragraph 191) as well as APF, MBU, ANPS and OANPS, insofar as they seek to limit noise effects from aviation. We now turn to look at other issues in terms of need, benefits and planning policy matters.

Need and Forecasting

Introduction

- 14.102 Delivering growth to meet the needs of passengers requires the conditions to be created for airlines to modernise and grow their fleets based at LCY, as previously sought in the CADP1 permission.
- 14.103 On these topics is a significant level of common ground. Aviation policy emphasises the Government's intention to facilitate sustainable growth and advises that it is supportive of airport growth where it is justified [6.16]. The Government encourages making the best use of existing runway capacity [6.18], and the FTTF supports this in its strategy to secure a future where aviation remains of strategic importance, allowing tourism, business and trade to thrive [6.19]. With this background, there is no specific policy requirement for LCY to demonstrate a particular type of 'need' as part of a proposal for development [8.35].

Forecasting

- 14.104 Air traffic forecasting is concerned with the assessment of future demand for air travel. People travel to and from the Airport for a variety of reasons, including business and leisure. The primary role of air traffic forecasting in the context of the appeal is to establish the demand for growth in capacity at the Airport, and to produce the inputs for the economic impact assessment of the development [8.32].
- 14.105 Issues in dispute centre around whether the forecasts are optimistic with regards to the rate of growth³⁰² and the extent of business and leisure passenger growth³⁰³ [8.43].

³⁰² Chris Smith PoE, page 9, para 2.5

³⁰³ Alex Chapman PoE, page 15, para 4.4

- 14.106 Passenger traffic at the Airport had grown up to the start of the pandemic. In the 12 months to the end of August 2023, the Airport handled 3.4mppa on just under 50,450 scheduled passenger air transport movements.³⁰⁴ This figure represents recovery to 66% of the volume of passengers handled in 2019, when the Airport handled 5.1mppa on 80,000 scheduled air transport movements.
- 14.107 The Airport has struggled to recover from the COVID-19 pandemic at the same rate as other airports. LCY's evidence suggests that there are a number of possible reasons for this relating to a fundamental shift in the need to travel for business purposes; LCY asserts that it has not been able to exploit the leisure market due to operating restrictions; Heathrow is operating below full capacity; and there have been aircraft maintenance and delivery issues.³⁰⁵
- 14.108 Debate was had during the Inquiry regarding the general recovery of business travel, not simply short term, but also over a longer period. It was raised by HACAN East that following the 2008 financial crash there was a proportion of the business travel market that simply did not recover.³⁰⁶ Furthermore, that changes in behaviour of those travelling for business to methods such as video conferencing led to LCY over-estimating the likelihood of business travel recovery [10.16]
- 14.109 The forecasts go into detail in respect of managing uncertainty [8.61-8.64], including the cost of carbon and its abatement, and also considered Faster and Slower Growth rates [8.66]. There was agreement between LBN and LCY that the methodology used for forecasting is the most appropriate available and demonstrates the Airport's trajectory to achieve 9mppa.³⁰⁷ Moreover, there are no alternative forecasts which conclude when this level of demand would occur, if not in accordance with LCY's forecasts.
- 14.110 There are a number of events that influence travel demand, some of which have longer lasting effects. The Need Case identifies that fundamentally, the DC Scenario predicts that ATMs would reach 111,000 and 9mppa by 2031,³⁰⁸ the DM Scenario predicts that the Airport would reach 8.8mppa by 2039.³⁰⁹
- 14.111 We are satisfied that the forecasts produced, having regard to the range of growth forecasts considered, are fit for purpose. We also consider that, despite the short-term effects of the pandemic, long-term growth in demand, whether for business or leisure, is likely to recover to pre-pandemic levels and to continue to grow.

Re-fleeting

- 14.112 As previously noted, utilisation of the new time slots on Saturday afternoon and the increase of movements in the morning would be restricted to new generation aircraft only [8.72]. LCY has stressed that this restriction would be

³⁰⁴ Louise Congdon PoE, page 20, para 4.2.1

³⁰⁵ Louise Congdon PoE, page 24, para 2.4.18

³⁰⁶ CD3.5.11, page 10, figure 3

³⁰⁷ CD11.2, Table 8.1

³⁰⁸ CD1.60, page 55, para 5.12

³⁰⁹ Ibid, page 52, para 4.33

the driving force for accelerating the rate of re-fleeting³¹⁰ [8.73], which would in turn, bring about benefits across the whole week. In particular LCY consider that, BACF, as the major operator at the Airport,³¹¹ would be encouraged to re-fleet for commercial purposes, and an extension in hours would create the conditions for BACF to re-fleet to new generation aircraft at a faster rate. Noise characteristics associated with re-fleeting have previously been considered in this report and are not repeated here.

- 14.113 Incentivising re-fleeting through allowing flights on a Saturday afternoon would mean this is done at a faster rate, as it would provide a commercial case (through greater utilisation) as well as improving airline efficiency. However, the ability to fly on a Saturday afternoon is not the only factor which would contribute re-fleeting. A matter which is acknowledged by LCY in the ES.³¹²
- 14.114 Specifically, re-fleeting is necessary to comply with the JZS, and therefore operators using the Airport would be expected to re-fleet to include next generation aircraft in any case. The Need Case supports this and accepts that given smaller aircraft types, such as those which dominate at the Airport, are likely to be at the forefront of this development, it is likely that the Airport would see a higher proportion of jet zero aircraft than the national average by 2050.³¹³ The Need Case also assumes that the proportion of the fleet which would be zero-emissions would be consistent between the DC and DM scenarios over the timeframe between 2031 and 2050.
- 14.115 On utilisation of aircraft, we accept that there are inefficiencies because of the need for airlines to move their aircraft elsewhere to effectively operate them over the weekend [8.23]. LCY state that allowing operations on Saturday afternoons is fundamental to creating the conditions for BACF to re-fleet at an early date and meet the growing local demand for air travel from the Airport.³¹⁴ However, there is no suggestion that BACF would simply not re-fleet should the proposal as a whole be unsuccessful,³¹⁵ and the timing of replacement is noted to be in the late 2020s based on the DM Scenario.³¹⁶
- 14.116 BACF has expressed support and identifies that extending to Saturday afternoon would allow the Airport to serve the market and improve efficiency. Moreover, that the current hours create challenges in justifying investment cases for re-fleeting when competing with other carriers within the IAG.³¹⁷
- 14.117 Re-fleeting would bring benefits to the environment and comply with Government policy, as well as commercial and operational efficiencies. However, while the extension to operating hours would increase the rate of re-fleeting, we do not consider that extended operating hours are directly

³¹⁰ CD1.60, page 44, para 4.3

³¹¹ Ibid, page 29, para 3.12, BACF is a subsidiary of British Airways, which operates all of British Airways' flights at the Airport.

³¹² Ibid page 48, para 4.15

³¹³ Ibid, page 59, para 5.23

³¹⁴ Ibid, page 48, para 4.19

³¹⁵ Ibid, page 56, para 5.17

³¹⁶ Ibid, page 48, para 4.16

³¹⁷ Louise Congdon PoE Appendix 1/B, letter from BACF dated 1 November 2023

necessary in order for re-fleeting to occur. This would be necessary to comply with the JZS, and would occur in any event, albeit at a slower rate.

Need

- 14.118 It is well established that some of the fundamental drivers of demand are population growth, economic growth, disposable income and the cost of travel. Historically demand for travel at the Airport was directed towards business travel [8.56]. Through making best use of the CADP1 permission the Airport exhibited robust growth prior to the pandemic, however recovery to pre-pandemic levels has lagged.³¹⁸
- 14.119 It is LCY's position that there have been two principal changes to the market since the CADP1 permission was approved. There has been a growth in demand for leisure services and the airline response to this market has resulted in changes to the profile of travellers, with the Need Case in the ES identifying that this reflects increasing passenger demand for leisure flying from LCY.³¹⁹ Furthermore, there has been a greater reliance on aircraft based overnight at the Airport, dedicating the Airport as a primary base of operation which creates opportunities to a range of leisure destinations and spreads demand across the day.³²⁰
- 14.120 During the Inquiry, a key point of the disagreement about need focused on whether the proposals represent a 'business' need case,³²¹ and not a 'general' need case. Linked to this is whether the loss of curfew on Saturday afternoons would meet a need. [9.40 & 10.80].
- 14.121 From the evidence, we fully accept that there is growth within the market generally, and as a consequence there is a 'general' need for the proposal, be it for leisure or for business passengers. Inevitably, the proposals would also aid business growth and adjusting the hours would increase focus on leisure flying.³²²
- 14.122 On the issue of the curfew, the ES Need Case states that growth using Saturday afternoon flights would represent a relatively small proportion of passengers overall, estimated at 500,000 per annum. However, the use of Saturday afternoon would create conditions for additional growth and would be expected to deliver a further 2mppa of growth across the week.³²³
- 14.123 It has been a trend at the Airport, for the number of aircraft movements to fall while there being an increase in the growth in passengers. This was apparent over the period 2017-2019 as higher capacity larger aircraft were

³¹⁸ Louise Congdon PoE, section 4.2

³¹⁹ CD1.60, page 46, para 4.10

³²⁰ Ibid, page 46, para 4.10

³²¹ For clarification, here a 'business' need case relates to the desires of LCY to grow as a business, rather than the proposals meeting a general passenger (be it for leisure or business travel) need. Reference to business need case should not be confused with a general business passenger need.

³²² Ibid, page 56, para 5.15

³²³ Ibid, page 66, para 5.43

introduced and higher load factors attained. The ES Need Case confirmed that this trend is expected to continue.³²⁴

- 14.124 Therefore, it is possible that need could continue to be met through the existing CADP1 permission with some changes to operations. The CADP1 permission allows for 111,000 ATMS, and an hourly runway capacity of 45 movements. The new generation aircraft provides an increase in the number of seats available on each flight.³²⁵ Thus this allows for the movement of more passengers within fewer flight movements.
- 14.125 Accordingly, if the Airport made full use of the number of aircraft movements per hour that the Airport's runway could accommodate, alongside re-fleeting, it would be possible for the Airport to handle an annual passenger volume of 8.8mppa without increasing operating hours [9.4]. Raising the passenger cap, while remaining within the operating hours as currently set would allow LCY to meet the need without extending the hours of operation, negating the consequence of changing the curfew.³²⁶
- 14.126 The implications of no change to opening hours was discussed in the ES Need Case³²⁷ and it is accepted by LCY that it would be possible for the Airport to reach 8.8mppa within the existing hours of operation.³²⁸ This was also reiterated during the Inquiry. This evidence was all given with the caveat, however, that such an increase would take longer to achieve.
- 14.127 Moreover, the ES Need Case identifies that there is a trend for greater numbers of passengers through the mid-morning and over wider evening peaks,³²⁹ which is driven by increased leisure flying over the middle of the day. Having regard to the existing hours of operation, it would be possible for leisure travellers to utilise evening flights.
- 14.128 Initially an extension to 2200hrs was proposed, however following public consultation the extent of the additional hours was reduced³³⁰ [8.21 and 8.205]. However, LCY confirmed at the Inquiry that the revision down to 1830 from 2200 was a management decision. No precise modelling was taken on different timings of extension, and the general approach focussed on the ability to prove a business case to re-fleet, and to rotate aircraft within the same day. In spite of this, LCY held that the additional hours are necessary to incentivise re-fleeting and therefore provide benefits of new generation aircraft across the week.
- 14.129 Evidence was presented through LCY that BACF supports the proposal, and that extended hours would allow expansion and assist in justifying an investment case for more fuel-efficient aircraft.³³¹ While support from BACF is

³²⁴ CD1.60, page 26, para 3.4

³²⁵ For example, the dominant current generation aircraft is the Embraer 190, which has a total of 98 seats. whereas new generation aircraft, including the Embraer-E2 family, have approximately 132 seats per aircraft.

³²⁶ Chris Smith Rebuttal, page 7, paras 1.23-1.25

³²⁷ CD1.60, page 66, para 5.44

³²⁸ Louise Condon PoE, page 44, para 5.4.4 and page 80, para 9.4.5

³²⁹ CD1.60, page 63, para 5.35

³³⁰ Ibid, page 69

³³¹ Louise Congdon PoE, Appendix 1/B, letter from BACF dated 1 November 2023

acknowledged, the letter does not show a commitment to re-fleet, or to take up newly created slots such as to meet anticipated need. There is no direct commitment that the Airport would benefit from new generation aircraft in the immediate future. The proposal, if successful, would therefore predominately assist a 'business need' case for the Airport.

- 14.130 Furthermore, even if the extended hours were to be allowed, there is no commitment to providing a full service at this stage. The uptake of slots would be gradual based on the ability of new generation aircraft to be purchased and put into service. Due to the Government's commitment to the JZS the gradual re-fleeting would occur in any event, albeit over a longer period. Accordingly, the benefits of new generation aircraft for those affected by the Airport would be realised over a period of time within the existing hours of operation. It is not necessary to permit additional hours on a Saturday in order to benefit from new generation aircraft in the long term.
- 14.131 We therefore consider that, having regard to the necessary move towards re-fleeting, and the possibility of reaching 8.8mppa, albeit over a longer period, there is a realistic possibility that the need could be met within the existing operating hours and using the permitted ATMs.
- 14.132 Much has been made by LCY of the need to make best use of runway capacity, in line with Government aviation policy. However, making best use is not solely reliant upon increasing the use of the runway through removing a curfew and increasing the period of time it can be used. That is just a single factor. Based on the ES Need Case, arguably, best use through increasing passenger numbers could reasonably be made within the existing operational hours. This approach would also be consistent with Government policy.

Need and Forecasting Conclusions

- 14.133 We are satisfied that the forecasts produced are fit for purpose. We find that long term growth in demand is likely to recover and continue to grow, and that the Airport serves this growth. Accordingly, we find that there is a general need for the Airport to utilise the opportunities available to it, which would be in line with making best use policy. Furthermore, we accept that increasing hours of operation would provide incentives to re-fleet, and that this would increase the efficiency of the operation of the Airport, benefit the environment, and comply with Government policy.
- 14.134 However, while the extension to operating hours may incentivise a faster rate of re-fleeting, the evidence is clear that it would be necessary to re-fleet in any event. Moreover, there was no suggestion that operators would refuse to re-fleet should the extension not be permitted, nor was there a clear case submitted that provided commitment or timetables for re-fleeting should the extension be permitted.
- 14.135 We find that it would be possible over time for growth to reach 8.8mppa within the existing hours of operation. This leads us to the conclusion that, while the removal of the Saturday afternoon curfew and additional morning flights would encourage growth, they are not in themselves vital to unlock the potential for growth and to make best use.
- 14.136 While there is policy support for airport expansion, and we acknowledge a general need, we find that the need could in principle be accommodated

without the extension of hours on a Saturday. Accordingly, it has not been demonstrated that there is an overriding public interest for the proposal in respect of meeting need as we have found that the additional operating hours are not necessary, and the proposal would conflict with LP Policy T8 (part B) in this regard. As we consider that the need could in principle be accommodated without the extension of hours on a Saturday, we find that the proposal would conflict with LP Policy SP8 which expects development to achieve good neighbourliness and fairness from the outset by avoiding negative and maximising positive impacts.

Other Considerations

Air Quality

- 14.137 The legislative, regulatory and policy context for assessment of air quality was set out within the ES. Air quality within the London Borough of Newham has been investigated by LBN as part of its responsibilities under the LAQM regime [6.39], and it has been identified that road traffic is the primary source of poor air quality in the Borough. LCY operates an extensive network of monitoring sites within, and in the vicinity of, the Airport. Additional monitoring is also carried out by LBN and the neighbouring local authorities.
- 14.138 Matters relating to Air Quality did not form a reason for refusal by LBN. The Officers Report to the Strategic Development Committee³³² reflected the conclusions of LBN's technical advisors, and there is common ground between LBN and LCY on this matter.³³³ To assist the Inquiry, LCY prepared a detailed topic paper on this matter which was not contested.³³⁴
- 14.139 The ES provides an assessment of the likely significant effects of the proposed development with respect to air quality, during construction and operational phases.³³⁵ The topics scoped into the assessment included operational air quality impacts on health-sensitive receptors associated with airside operations and surface access (including construction traffic in the DC scenarios), and specifically for nitrogen dioxide, PM₁₀ and PM_{2.5}; and odour impacts associated with airport operations.
- 14.140 The Assessment was carried out for a Baseline Year (2019), along with three future years (2025, 2027, 2031) for both the DC and DM scenarios. Two sensitivity tests were also considered, with the Slower Growth Scenario representing a scenario of reaching the new passenger cap of 9mppa by 2033; and the Faster Growth Scenario representing a rapid progression to 9mppa by 2029.
- 14.141 In 2019, the Air Quality Monitoring Strategy (AQMS) included an automatic monitoring station situated on the roof of City Aviation House which measures concentrations of nitrogen dioxide and PM₁₀, an automatic monitoring station at Newham Dockside which measures nitrogen dioxide, and an automatic monitoring station at KGV House which measures both PM₁₀ and PM_{2.5}. The

³³² CD4.3.1

³³³ CD11.2

³³⁴ Sean Bashforth PoE, Appendix 1

³³⁵ CD1.16

AQMS also includes a network of nitrogen dioxide diffusion tubes located around the Airport and close to local housing.

- 14.142 The ES concludes that air quality conditions in the vicinity of the Airport are generally good, with levels below the air quality objectives/limit values for nitrogen dioxide, PM₁₀ and PM_{2.5} at most locations (in 2019). There are some exceedances (in 2019) of the objectives/limit values at some roadside locations.
- 14.143 Furthermore, the assessment identified that levels of critical pollutants would continue to reduce in future years, and would be below the objectives/limit values. While there is some potential for the Greater London Authority non-statutory PM_{2.5} target to be exceeded, this would be across London, compliance with the target would not be directly affected by the proposal.
- 14.144 The ES concludes that the potential for odour impacts would reduce in future years, the proposal would support this reduction through the introduction of new generation aircraft with lower hydrocarbon emissions. The proposal would be air quality neutral in accordance with the benchmarks published by GLA. Air Quality Monitoring and Air Quality Management Strategies (2023-2026) were submitted to and approved by LBN. These set out commitments to continue to measure air quality levels in the vicinity of the Airport, and to implement a range of measures to minimise air quality impacts.
- 14.145 While LBN identified some initial concerns regarding methodology, LBN went on to agree that overall air quality impacts would not be significant when compared to the CADP1 permission.
- 14.146 Overall, it was concluded that operational air quality effects in 2025, 2027, 2029 and 2031 would not be significant in EIA terms. We are satisfied that with specific regard to air quality, there would be no conflict in terms of national policy on this matter, including the Air Quality Regulations, Air Quality Strategy and the NPPF.

Climate Change

- 14.147 Matters relating to carbon emissions and climate change did not form a reason for refusal by LBN and there is a significant amount of common ground between LCY and LBN on this issue [7.5.1-7.5.11]. To assist the Inquiry, LCY prepared a detailed topic paper on this matter which was not contested.³³⁶ However, HACAN East consider that the proposals have not demonstrated accordance with development plan policies around climate change.
- 14.148 The ES provides a detailed assessment of climate change. This includes modelling of future emissions in 2024, 2027, 2031 and 2050 against the 2019 baseline. Emissions are split into aviation emissions and non-aviation emissions, such as from Airport activities.
- 14.149 The assessment approach in the ES uses 5 tests of significance which compares the carbon emissions with:

³³⁶ Sean Bashforth PoE, Appendix 2

- i) the 'planning assumption' (37.5Mt CO₂) that was taken into account when setting the Fourth and Fifth Carbon Budgets;
- ii) the Sixth Carbon Budget;
- iii) the DfT Jet Zero Strategy's 'high ambition' in sector trajectory;
- iv) national policy to reduce aviation emissions to net zero by 2050; and
- v) considering whether the increase in carbon emissions is so significant that it would have a material impact on the ability of Government to meet its carbon reduction targets, including carbon budgets.

14.150 This is a widely adopted approach which has been used in a number of airport expansion proposals and endorsed by the High Court.³³⁷ It is important to note that aviation emissions are regulated at national level, with reductions being driven by Government policies, incentives and participation in the UK ETS which are a 'cap and trade' scheme and CORSIA, which is a global trade scheme. The Government retains the ability to introduce additional measures in order to control aviation emissions should they be needed and is under a legal duty to ensure that the net zero carbon target and carbon budgets in the CCA 2008 is met.

14.151 Using these tests, the ES concludes that the increase in airport capacity from 6.5mppa to 9mppa would not significantly increase aviation carbon emissions and would not impede Government policy to achieve net zero. [8.231 & 8.232]

14.152 For non-aviation carbon emissions the ES shows that the proposals would make no difference to direct emissions (operational emissions arising from the day-to-day operation of the Airport) and indirect emissions (which are emissions that are a consequence of the Airport's activities such as purchased electricity, heat and cooling etc). These would also be subject to a continued Carbon and Climate Change Action Plan (CCCAP) as secured by condition. The CCCAP seeks to achieve net zero by 2030 and seeks to manage other indirect emissions (emissions that occur from sources which are not owned or controlled by the Airport for example passenger transport and aircraft in flight) insofar as it is able [8.233].

14.153 While there was significant concern locally by interested parties in respect of the climate emergency, based on the above, we are satisfied that the proposals would ensure compliance with national policy on this matter, including the NPPF, APF, MBU, ANPS, FTTP and JZS.

14.154 LP Policy T8 makes specific reference to climate change effects being fully acknowledged [6.4]. The argument put forward by HACAN East is that in referencing that aviation greenhouse gas emissions must be aligned with the Mayor's carbon reduction targets within the supporting text [6.6], the correct interpretation of this is the Mayor's 2030 Net Zero target, as opposed to the previous 2050 target. This is on the basis of the publication of 'London Net Zero 2030: An Updated Pathway'.³³⁸ [10.74-10.75].

14.155 Policy T8 itself is silent on the target date for net zero. The supporting text to Policy T8 is unspecific. Other policy, such as Policy GG6 references the 2050

³³⁷ CD8.08 (Bristol Airport judgement) and CD8.10 (Southampton Airport Judgement)

³³⁸ CD3.9.06

Net Zero Target, but this is unsurprising as the Mayor's 2030 target was developed after the adoption of the plan.

- 14.156 There is a clear legal duty to achieve net zero by 2050, and the ES assessment is predicated on this. As a general principal, it is uncontroversial to say any bringing forward of that target can only be a good thing in terms of climate change. Indeed, the JZS itself while aiming toward 2050, sets a target of 2040 for domestic flights and airport operations.
- 14.157 This is simply down to a matter of interpretation of the supporting text. The LP was clearly designed to meet the 2050 legal target. The Mayor's 2030 target signifies a direction of travel for future London policy, but it does not currently have statutory weight as part of the LP.
- 14.158 Critically, as previously identified, caselaw is also clear that aviation emissions are a matter which are controlled under other national control regimes. In terms of non-aviation emissions, the CCCPA would seek to achieve net zero by 2030 in any case. Therefore, insofar as LP policy could come into play in terms of emissions, and even if the 2030 target was a material consideration as the policy target for the purposes of LP Policy T8, that could be met through the conditioning of the CCCPA.
- 14.159 Overall, with specific regard to climate change, we are satisfied that there would be no conflict in terms of national and development plan policy. In particular there would be no conflict with LP Policies T8 and GG6 on this matter.

Transport

- 14.160 Matters in respect of surface access transport are set out in the ES³³⁹ which includes and the legislative and policy context. In addition, LCY submitted a Transport Assessment³⁴⁰ and technical note was also produced for the Inquiry with specific regard to COVID-19 impacts in the modelling and on revised IEMA Guidance.³⁴¹ Transport did not form a reason for refusal by LBN and there is a significant amount of common ground between LBN and LCY [7.6].
- 14.161 The Airport is well served by public transport, including the Docklands Light Railway (DLR) and from the new Elizabeth Line [2.4]. There are also regular bus services. Current parking provision (including staff parking) is just under 1000 spaces, and there are also cycle spaces as well.
- 14.162 Overall, the ES demonstrates that the current public transport provision, including the DLR, bus and Elizabeth Line would have capacity to absorb additional demand associated with the proposed development. The majority of the additional demand is expected to occur during the weekday off-peak and Saturday periods, when there is substantial unused public transport capacity.
- 14.163 The Airport also seek to further promote non-car travel and reduce carbon through a STF. Other conditions relating to a Travel Plan, Transport

³³⁹ CD1.17

³⁴⁰ CD1.61

³⁴¹ Sean Bashforth PoE, Appendix 4.

Management Strategy would be retained and reviewed as appropriate. These would deal with the comments made by TfL, who have been party to the planning obligation, including the updated deed of variation for this appeal.

The Public Sector Equality Duty

14.164 Section 149 of The Equalities Act 2010 established the Public Sector Equality Duty (PSED) to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. Age and disability are protected characteristics and people with existing health concerns may be more susceptible to adverse effects caused by airport growth. Representations from local residents have made specific reference to health problems associated with noise and air quality from the Airport [12.38 – 12.40].

14.165 While we have found harm in terms of noise, this is related to amenity, rather than health [14.96]. In terms of air quality, our analysis is that overall air quality impacts would not be significant when compared to the CADP1 permission [14.114]. There is also a commitment to further minimise air quality levels which would be secured by conditions relating to air quality management and surface access management.

14.166 Accordingly, and even though we have found harm in terms of noise, we do not consider that the proposal would have a material adverse effect on, or discriminate against, those with a protected characteristic.

Socio-Economic Benefits

14.167 Helpfully, there is substantial common ground in terms of the economic and consumer benefits of the Proposed Amendments between LBN and LCY. These are worth repeating here and would include:

- Boost business productivity, supporting the growth of and investment in key sectors in the local economy equivalent to £398 million a year by 2031 (£99 million more than in 2019).
- Support tourist expenditure in London of £558 million a year by 2031, (£227 million more than 2019) and have a net positive impact on socio-economic welfare of £371 million over the next 60 years.
- Support the Global Britain and economic recovery agendas more generally.
- Bring London City Airport's total annual GVA contribution to over £1.6 billion (an increase of £702m over 2019 levels).³⁴²
- Deliver an additional 1,340 jobs (1,170 FTEs) at the Airport by 2031 compared to 2019 supporting additional GVA of £144m, bringing the total number employed onsite to 3,650 (3,230 FTEs). Of these, 330 jobs are expected to be in management, professional and technical roles; 240 jobs are expected to be in administrative, trade and services roles; and 770 jobs are expected to be in sales, process and elementary roles.
- Result in 4,470 additional jobs (3,750 FTEs) across London by 2031 compared to 2019, as well as £702m in additional GVA. This includes 830 additional jobs through supply chain and spending effects,

³⁴² CD1.05, page 48, Table 7.1

supporting additional GVA of £105m and a further 2,300 jobs through catalytic effects (supported as a result of increased inbound tourism and increases in business productivity), supporting £453m of additional GVA [reproduced in full from 7.2.6].

14.168 It is important to appreciate the context in terms of the area in which these benefits would be delivered; the Airport is an important employer in the area, supporting a number of direct and indirect jobs [8.98]. Newham is also one of the most deprived Boroughs in the UK [8.4] and the Airport lies within a priority area for levelling up, is recognised as an anchor within the designated OA and an area which would see substantial growth.

14.169 The policy context is also clear; the development plan, the NPPF and national aviation policy are all supportive of economic growth and the role of aviation in achieving that [6.1-6.20]. We now turn to the areas of dispute.

Timing

14.170 The benefits would be realised by 2031 when the Airport reaches 9mppa and would be increased gradually until that point. Similarly, noise effects as previously identified would accrue; the Saturday afternoon curfew would not immediately release all of the slots, but these would also be taken up gradually [8.122]. In this regard, there is no tangible difference between the timing of the benefits against the timing of the harm.

Historic Delivery of Benefits

14.171 It is important to remember that, as a s73 application, the parent permission under CADP1 also sought to achieve a number of economic benefits. Indeed, the significant benefits of the scheme were considered by both the Inspector and the SoS to outweigh the harm caused.³⁴³

14.172 On this, concern was raised that the benefits put forward as part of that application has not been realised. HACAN East also make reference to longer term trends of under-delivery of jobs at the Airport dating back to 2018 [10.23]. However, it is important to remember that the implementation of CADP1 is ongoing and 6.5mppa has not been realised as of yet. Progress was also stalled by the COVID-19 pandemic which was an unprecedented global event.

14.173 In terms of longer-term trends at the Airport on these matters, the figures for this appeal are agreed between LBN and LCY and there are no other figures before us to assist.

14.174 Crucially, any differences in these matters would prevail in both the DM and DC scenarios. Accordingly, while there may be differences from the predictions in the future reality, we are satisfied that that there would continue to be a net increase in benefits, including employment, between the DM and DC scenarios.

14.175 Related to this, and as discussed earlier in our report, the noise witness for LCY argued that the existing curfew creates an almost complete loss of socio-

³⁴³ CD7.8

economic and consumer benefits from flights during the curfew hours. However, the agreed benefits are cumulative and would be shared across the whole week. It is unhelpful to disaggregate benefits in this way, nor should additional weight be given to benefits because of the proposed reduction in curfew hours and the perceived 'total loss' when the Airport is closed.

- 14.176 Both CADP1 and the current appeal proposals would generate benefits going forward. As stated above, there would also be a net increase from the proposed amendments from the DM Scenario due to the overall growth at the Airport.

Displacement

- 14.177 Economic impacts, including employment, were assessed in the ES³⁴⁴ without being adjusted for displacement. However, passenger and aircraft displacement were accounted for.
- 14.178 There is some ambiguity around the assumptions used and while the three types of displacement [8.140] are distinct from one another, on the face of it, there appears to be a mismatch in the approach taken [10.17]. However, there is not a standardised methodology to assessing such effects and there are inherent uncertainties associated with any assessment. It is also noted that other decisions for airport expansion including at Luton Airport, have considered this matter finding that potential for displacement of passengers or spending does not weigh against the proposal [8.142].
- 14.179 Displacement does happen and indeed has happened in terms of passenger displacement with routes moving away from the Airport to Heathrow as a result of the pandemic, in order to preserve the slots. Nevertheless, this is a temporary issue and should not be permanent [8.83c].
- 14.180 However, there is no detailed evidence that the displacement would be harmful or undermine the benefits to a significant degree. Similarly in terms of climate change there is logic in the approach taken to carbon emissions [8.140] due to the need for positioning aircraft elsewhere during the curfew period. We have also given our analysis on climate change matters separately.
- 14.181 Airport expansion is actively supported in policy terms, including in terms of making best use of existing runways, and in general economic terms as part of levelling up. The ES is correct in analysing the local impacts and the wider impacts across London, particularly in terms of levelling up. Accordingly, these matters do not weigh against the proposal.

WebTAG

- 14.182 WebTAG provides a framework for assessing the monetised environmental impacts of proposals and is commonly used for central government interventions to justify the use of public investment for specific infrastructure schemes.

³⁴⁴ CD1.60

- 14.183 DfT TAG Aviation Appraisal guidance³⁴⁵ was updated in November 2022 and sets out general principles for appraising aviation interventions. It states that the main user is expected to be DfT but that the guidance is expected to be useful in considering non-government aviation interventions. It also states that *"decisions on planning applications for airport development will be considered in the normal way, including to take account of relevant material considerations which may include evidence relating to the strategic, commercial, financial and management case of a development proposal."*³⁴⁶
- 14.184 The use of a WebTAG appraisal is not routinely undertaken for applications for airport expansion and there is no specific requirement for it to be carried out. Other Airport Inquiries have also discounted its use [8.131b]. HACAN East consider, however, that its use should be considered here and have undertaken this exercise in respect of noise and climate change.
- 14.185 The gulf between HACAN East and LCY on this matter is not to be underestimated. The principle of its use, the methodology and the assessment outputs themselves were fertile ground for debate within the Inquiry. This is clearly demonstrated in the additional notes produced after examination on this topic by the respective witnesses.³⁴⁷
- 14.186 As a general point, we do not accept that it would lead to double counting if terms of effects [8.134] as it clearly relates to economic effects and does not form part of the general noise assessment.
- 14.187 Ultimately, it would be open for us, and the SoS to take it into account as a material consideration. However, given the differences between the relevant parties and its lack of application elsewhere, there is too much uncertainty in its application for it to be useful in determining this specific appeal at this time.
- 14.188 Notwithstanding this, we have found harm in terms of noise effects and it is perfectly possible for us and the SoS to balance that harm against the benefits as part of the normal planning balance.

Equity of Socio-Economic Benefits

- 14.189 On the matter of impact equity, it is not disputed that 70% of flights were taken by 30% of the population [10.24]. CAA passenger income figures were also presented to the Inquiry.³⁴⁸ This shows that in 2019, the average household income of leisure passengers at the Airport was £77,000 and personal income of business passengers was £103,000, whereas the average income for UK households was £61,000 and while London incomes are higher than the UK average, incomes in Newham are lower than the London average.
- 14.190 In general, outbound tourism is encouraged in national policy and thus there is no requirement to limit this in order to retain spending in the UK [8.144].

³⁴⁵ CD3.10.04

³⁴⁶ Ibid, page 3, para 1.1.4

³⁴⁷ INQ25 and INQ29

³⁴⁸ INQ19

14.191 The general benefits outlined above would also have different effects on different people and of course, some benefits would not affect certain groups, such as those who choose not to or are unable to fly. However, other benefits, such as job creation for residents in Newham, would not be a specific social benefit for future business or leisure passengers, but would be a benefit in the Borough. This stance taken by HACAN East is therefore an over-simplification and benefits need to be considered in the round [10.25]. It would not, therefore, amount to a narrowing of the social benefits.

Socio-economic benefit conclusions

14.192 Overall, the package of benefits outlined above are substantial. We have also found that disputed matters would not reduce the benefits to be given to the proposals, which are over and above the benefits secured by the CADP1 parent permission. Our conclusions on these are based on the benefits in their own right, notwithstanding our conclusions in respect of need. We come now to evaluating all our findings as part of a planning balance, below.

Planning Balance

14.193 This is an appeal relating to a s73 application and central to making our recommendation to the SoS is the assessment of whether the disputed conditions as per the CADP1 permission are reasonable, necessary and continue to serve a planning purpose. As part of this assessment, it is essential to evaluate the benefits and the disbenefits of the proposed amendments as part of a planning balance.

14.194 The appeal proposals seek to amend several operational conditions implemented as part of CADP1. In combination, these conditions would increase the passenger numbers and operational hours, amongst other things [4.3].

14.195 As highlighted throughout our report, this is a case where there is a remarkable amount of common ground. LBN, and indeed much of the community, are supportive of the principle of growth at the Airport but in a managed way which is appropriate to the local environmental constraints.

14.196 The key environmental effect here relates to noise and more specifically, the noise associated with the extension of operating hours on a Saturday afternoon. In essence, the dispute effectively comes down to condition 17 on the CADP1 permission.³⁴⁹

14.197 Development plan policies and the national policy basis are highly supportive of making best use of existing airports and airport expansion in general while managing and mitigating against any environmental effects. Specifically, APF and MBU reference the sharing of benefits between the aviation industry and local communities [8.156 & 8.164]. OANPS also recognises that economic and consumer benefits may offset an increase in adverse effects of noise [8.166].

³⁴⁹ With related conditions in respect of aircraft maintenance and repair hours, passenger terminal opening times and ground running, testing and maintenance also affected as they would be amended to reflect the lifting of the overall curfew.

- 14.198 There can be no doubt that there would be a number of socio-economic benefits which substantially weigh in favour of the proposed amendments to the conditions, as previously discussed in our report.
- 14.199 There would also be no adverse effects in terms of air quality, climate change, and transport. There would be no material adverse effects under the PSED. These matters are neutral in the planning balance.
- 14.200 We have found that the appeal proposals would result in harm in terms of noise effects on local amenity. This is with specific regard to the loss of the Saturday afternoon curfew period and the addition of up to 80 flights during this period. We have also found that the sharing of noise reduction benefits across the whole week would be negligible and other types of mitigation as proposed would assist but would not overcome the fundamental loss of the Saturday afternoon curfew in terms of noise effects.
- 14.201 It is acknowledged that the appeal proposals are not for a complete removal of the curfew, and that the curfew period from 1830 (or 1930 BST) on Saturday to 1200 on Sunday would remain. This would still result in a period of time at the weekend within which amenity would be protected. However, that period would begin significantly later in the day.
- 14.202 We recognise that there is clearly a general need for growth at the Airport, which has in principle support from Government aviation policy. The proposed amendments would also bring about greater leisure flights to compliment the business offer at the Airport as well as increasing use of new generation aircraft earlier than they would under the extant CADP1 consent. However, re-fleeting would occur in any case under CADP1, albeit at a slower pace. Leisure flights could also continue to grow.
- 14.203 Critically, it is possible for the Airport to reach 8.8mppa under the existing permitted ATMs, without the loss of the Saturday afternoon curfew period. This would effectively bring about many of the cited benefits, without the identified harm.
- 14.204 The curfew period under condition 17 itself (and other related conditions) forms noise mitigation as part of CADP1. The APF recognises that noise mitigation should be proportionate and such actions should not impose unlimited costs on industry. Indeed, all of the aviation policies require a balance in terms of environmental effects against the benefits.
- 14.205 In light of the adverse noise effects identified, and the fact that the Airport could, in essence, increase passenger numbers without causing harm to amenity from noise on a Saturday afternoon, we consider that the existing curfew period is a proportionate mitigation response in this location. We therefore consider that the current restrictions on Saturday afternoon operations continue to be reasonable and necessary.
- 14.206 In making our recommendation, we have considered whether it would be appropriate to amend the other conditions to allow for an increase in passenger numbers, and the additional morning flights and other changes, while maintaining but the limit on operating hours on Saturday afternoons. LBN consider that this could be achieved [9.3 & 9.84].

- 14.207 This possibility was explored with LCY at the Inquiry who considered that all the conditions subject to the proposed amendments are inherently linked, and the positive and negative implications of granting a s73 permission without amending condition 17 (and other related conditions) has not been assessed by the ES [8.71].
- 14.208 Under s73 there is the power to impose any conditions considered to be necessary, not to impose a previous condition considered to be unnecessary, or to impose a different version of a previous condition.³⁵⁰ It would thus be open to us, and the SoS to agree with some of the conditions which are subject to the appeal and not others, provided that this would not materially alter the development sought, or result in conflict with the description of development. It is our view that maintaining the current curfew period would be acceptable on this basis.
- 14.209 It is important to also consider if a partly approved scheme could result in new or different significant environmental effects beyond those currently assessed by the ES. The ES is predicated on reaching 9mppa with a relaxation of the existing curfew period and the scenarios assessed as part of this reflect this. However, the ES itself covers the implications of no change to opening hours,³⁵¹ and accept that 8.8mppa could be reached by the late 2030's. The resultant drawbacks are discussed by the ES; this includes less imperative to re-fleet, a point which we have dealt with above in our analysis of the Need Case, and in which we considered to have limited substance for the reason given.
- 14.210 In addition, the ES notes that development over this timeframe would also be likely to lead to more focus on business orientated routes and users, potentially offering less benefits to local residents. However, as we have found in our analysis of need, it would be possible for leisure travellers to use evening flights and in the middle of the day. Plus, the Airport could continue to serve both business and leisure passengers, and any alleged disbenefit from a leisure offer on Saturday afternoons would likely be minor. We consider the socio-economic benefits generated by the scheme would largely remain in this scenario.
- 14.211 Moreover, the CADP1 permission was supported by a full ES, which maintained the curfew period. Taking this, and our analysis together, we consider it to be unlikely that there would be any new or different environmental effects which have not been assessed by an ES.
- 14.212 In light of the significant common ground between the LCY and LBN, this would balance the needs of the community against the needs of the Airport, as a pragmatic approach. Effectively, maintaining the existing curfew period would provide a suitable alternative solution to the growth of the Airport with fewer environmental impacts, as noted by LP Policy T8 (part B) as well as meeting agent of change principles, encapsulated in LP Policy D13. It would also positively respond to the need to improve employment levels and reduce poverty, whilst attending to the environmental impacts of economic

³⁵⁰ LCY reference this as a 'split' decision, however it would not technically be a split decision for planning purposes, and it is entirely proper to do this under s73.

³⁵¹ CD1.60, page 66, paras 5.44-5.46

development as required by NLP Policy SP2. It would also achieve good neighbourliness and fairness from the outset by avoiding negative and maximising positive social, environmental and design impacts for neighbours on and off the site, as expected by NLP Policy SP8.

14.213 While LCY consider that this approach could be susceptible to legal challenge, they do not elaborate on this point. In any event it would be open to them to apply for a further variation on this specific matter/condition in the future, should they wish. Their interests would not therefore be unreasonably prejudiced by this approach.

14.214 Overall, we consider that maintaining the full curfew period, while allowing other operational expansion at the Airport would be fully consistent with Government policy in the APF, MBU, ANPS, OANPS and FTTF. It would also ensure compliance with the development plan, and there would be no conflict with LP Policies T8, D13 and NLP Policy SP2 and SP8. There would also be no conflict with the NPPF at paragraph 191. Other general economic policies within the NPPF and other guidance would also be met.

Conditions and Planning Obligation

Conditions

General

14.215 Helpfully, other than for condition 1 [13.4], LBN and LCY invested significantly in agreeing a list of conditions that should be applied in the event that permission is granted for the proposal by the SoS. These relate to the scheme as proposed in full, rather than if the Saturday afternoon curfew is maintained.

14.216 We have considered the suggested conditions in accordance with paragraph 56 of the NPPF. This states that conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. These have also been considered in light of advice contained within the NPPG, particularly in respect of the grant of planning permission under s73 of the TCPA.

14.217 There are fewer conditions proposed for this application than under the CADP1 scheme as most of the operational development has been implemented. Accordingly, the numbers for the conditions have changed. We appreciate that this causes some difficulties in monitoring and reporting for LBN however should permission be granted this is unavoidable.

14.218 Where relevant, the wording of a number of conditions is also varied, to reflect that these have been discharged and to tie them to the approved plans or documents as part of that. This avoids the need to repeat many pre-commencement conditions and ensures that they would be precise [13.2].

Time Commencement Condition

14.219 In terms of the debate over the time commencement condition, we have considered the joint note put forward by LBN and LCY.³⁵² Both have a preference that a time-limit condition is attached to this permission stating that:

"The development shall begin not later than three years from 26 July 2016."

14.220 Clearly this is long expired and the CADP1 permission is, in any case, extant as it has largely been implemented [3.5].

14.221 The time limit also cannot be extended on granting of any new consent. If planning permission is granted under s73, s73(5) of the TCPA is clear that it must not have the effect of extending the time limit specified in a condition on the previous permission.

14.222 LBN and LCY consider that the imposition of the original condition is optimal as it ensures compliance with s73(5) of the TCPA. They assert that it complies with the NPPG and as the time limit is immediately satisfied on the date the Appeal decision is issued it reconciles s73(5) with s91(1) of the TCPA.

14.223 However, guidance in the NPPG³⁵³ advises that only those conditions which continue to have effect should be restated. This condition clearly does not continue to have effect as the 3-year period has long since lapsed. It is also our view that this would not meet the tests of reasonableness and necessity within the NPPF. It would, however, be open for the SoS to impose this condition in the interests of certainty if they wished to.

14.224 In terms of s91 of the TCPA, this requires every planning permission to be granted subject to a condition which includes a time limit for commencement of development beginning with the date of the permission. If no such condition is imposed on a planning permission, s91(3) provides that the permission is deemed to be granted subject to the condition that the development to which it relates must be begun not later than the expiration of the applicable period in any case. It is on this basis that LBN considers a new time limit condition should be imposed.

14.225 Our view is that the legislation and guidance is clear that a time-limit condition should not be reimposed in the circumstances of this case. This would be consistent with the approach taken by the Inspector Panel and the SoS at Luton Airport. We are doubtful that s91(3) could be effective in extending the time limit to commence the development in light of s73(5).

14.226 However, even if we are wrong in our interpretation and the SoS consider that LBN's arguments have merit, the function of s91(3) would be to deem a time period to be imposed in any event i.e. a new time period condition would not strictly be necessary.

³⁵² INQ31

³⁵³ Paragraph: 015 Reference ID: 17a-015-20140306

Other Conditions

- 14.227 Turning now to the remainder of the conditions, based on our considerations we have reimposed the existing CADP1 conditions relating to aircraft maintenance and Repair (newly numbered condition 7), aircraft take-off and land times (newly numbered condition 16), maximum permitted actual aircraft movements (newly numbered condition 20), passenger terminal opening times (newly numbered condition 36) and ground running, testing and maintenance (newly numbered condition 43). Together these conditions limit the operating hours as well as the maximum number of movements on a Saturday, and are necessary to be retained.
- 14.228 Should the SoS be minded to allow the appeal on this basis, it is considered that the conditions set out in Annex E to this report are in accordance with paragraph 56 of the NPPF. Given the amount of conditions and the complex nature of them, rather than providing commentary here, we have set out the reasons for their imposition below each condition. The SoS should have regard to these in their consideration.
- 14.229 In brief, however, varied forms of conditions would impose a 9mppa passenger cap, adjust the noise contours, changes to daily limits, as well as other changes to assist in operational matters and minor physical works but without amending the operating hours. Condition 20, relating to maximum permitted aircraft movements, is also kept as this limits the amount of movements on Saturdays.
- 14.230 While we note that the Need Case suggests 8.8mppa could be reached, we have imposed passenger numbers to 9mppa (condition 37) in any case as this would give flexibility in the future, while maintaining the curfew.
- 14.231 We have also amended condition 88 which relates to additional flight slots for limited to new generation aircraft. This related to the lifting of the Saturday afternoon curfew and for the new additional early morning slots. The former would not be necessary, however it would still be necessary and reasonable to condition this for the new early morning slots, based on our analysis of the noise effects as previously discussed on this matter.
- 14.232 Should the SoS be minded to allow the appeal but include the amended opening hours, those conditions should be substituted with the ones contained in Annex F. In this circumstance, all the other conditions in Annex E should be imposed.

Planning Obligation – S106 Deed of Variation

- 14.233 The CADP1 Section 106 Agreement (CADP1 Agreement) was entered into on 27 April 2016 and has since been subject to four deeds of variation.³⁵⁴ As part of the current appeal a DoV was agreed between LCY and LBN as it would be necessary to ensure that the obligations remained secured in the event the appeal is allowed.³⁵⁵ In order to comply with Regulation 122 of the CIL Regulations it is necessary to assess whether each obligation would be necessary to make the development acceptable in planning terms; is directly

³⁵⁴ CD12.1 to CD12.5

³⁵⁵ INQ30 & see also INQ11 for LBN CIL Compliance Statement

related to the development; and is fairly and reasonably related in scale and kind to the development.

14.234 It should be noted that clause 2.5 of the DoV functions as a 'blue pencil clause', allowing provisions to be found invalid if necessary, without affecting the validity of the remaining provisions.

14.235 The amendments contained within the DoV are set out below.

Schedule 5 – Additional Employment Contribution

14.236 Schedule 5 sets out the financial contributions which are payable under the CADP1 Agreement. The only financial contribution in schedule 5 that would be amended would be the Employment Contribution. The CADP1 Agreement already secures an Employment Contribution of £5,018,112, and to date LCY has paid all instalments with the exception of those due on the seventh, eighth and ninth anniversaries of the Commencement of Development.

14.237 In addition to the CADP1 Agreement Employment Contribution, the DoV provides for payment of an additional Employment Contribution of £1,897,800 index-linked in three equal instalments.

14.238 We are satisfied that this contribution would meet the requirements of policies J1 and J3 of the Newham Local Plan in respect of providing skills and access to employment.

14.239 This contribution is related to the job opportunities created by future growth resulting from the proposal and is first payable when the airport handles more than 6.5mppa. Having regard to the ability to increase passenger movements within the existing hours of operation we are satisfied that it would comply with Regulation 122 of the CIL Regulations.

Schedule 6 – District Heating/Eastern Energy Centre

14.240 Schedule 6 currently provides that the Western Terminal Extension (the WTE) may not be occupied until the Eastern Energy Centre (EEC) has been provided and commissioned and is supplying heat to buildings at the Airport.

14.241 The DoV secures a number of amendments to the existing obligations in relation to the delivery of the Eastern Energy Centre (EEC) and connection of the Airport to a District Heating Network (DHN). It would allow LCY in certain circumstances to deliver the EEC subject to the utilisation of lower emissions technology and would safeguard a DHN connection.

14.242 This would be necessary to comply with the GLA's Energy Hierarchy as set out in the Newham Local Plan Policy SC2 and London Plan Policy SI2, which require all development to minimise and reduce carbon emissions and to meet London Plan zero carbon targets. We are satisfied that it would comply with Regulation 122 of the CIL Regulations.

Schedules 8 and 9 – Sound Insulation Schemes (SIS)

14.243 The DoV secures a number of enhancements to the existing SIS secured by the CADP1 Agreement. Subject to eligibility criteria, the SIS operates on the basis that properties would be treated if they are either exposed to the relevant noise levels in the preceding calendar year or predicted to be

exposed to those levels in the forthcoming calendar year. The aim of these amendments is to offer compensatory mitigation to those potentially affected by aircraft noise in accordance with the APF.

- 14.244 Eligibility for the Second Tier is expanded with an additional criterion to be introduced from implementation of the s73 permission based on the 55dB $L_{Aeq,8h}$ summer night-time contour. This is to address the additional flights proposed in the morning so as to ensure that everyone exposed to air noise above the SOAEL (as identified in the ES) is eligible for sound insulation works from commencement of the Appeal Proposal.
- 14.245 For the Intermediate Tier, the changes provide for LCY to replace the fixed cash grant with an increased contribution towards high performance double glazing and also manage installation. This is designed to increase take-up of the scheme. The DoV also extends eligibility to the Intermediate Tier such that, from implementation of the s73 permission, works would also be offered to dwellings within the 60dB $L_{Aeq,16h}$ summer weekend daytime contour. The extension to eligibility based on weekend noise is again to offer treatment to all of those above the SOAEL (as identified in the ES) from commencement of the appeal proposal.
- 14.246 In addition, the DoV secures the phasing in of an extension of the summer daytime threshold for the Intermediate Tier from the currently required 63dB $L_{Aeq,16h}$ which is the SOAEL identified in the ES. The eligibility threshold would be lowered to 62dB $L_{Aeq,16h}$ from 2027, 61dB $L_{Aeq,16h}$ from 2029 and 60dB $L_{Aeq,16h}$ from 2031.
- 14.247 The SIS is also amended to ensure that the age and location criteria which determine eligibility for each scheme follow the approach taken previously in the two previous S106 Agreements, including the CADP S106 Agreement. This means that after the date of the DoV, new development that is permitted and built within the 'future growth' scenario 57dB contour (as relevant to the First Tier scheme), the 'future growth' scenario 66dB contour (as relevant to the Second Tier scheme) or the 'future growth' scenario 60dB contour (as relevant to the Intermediate Tier scheme) would be expected to make provision for adequate noise insulation and would not benefit from the SIS, in accordance with the agent of change principle. All other properties located within (or outside) those contours (both existing properties and those permitted before the date of the DoV and built subsequently), would (subject to other existing criteria) be eligible under the 'age and location' criteria for each scheme.
- 14.248 The proposed enhancements to the SIS offer insulation where levels of exposure are above SOAEL which accords with the aim of the NPSE.³⁵⁶ In addition, the changes to the SIS reflect the advice from Government in national aviation policy to the effect that the noise insulation policy threshold should be extended beyond the 63dB $L_{Aeq,16h}$ contour to the 60dB $L_{Aeq,16h}$ contour and that all airports should review the effectiveness of existing SIS.³⁵⁷ The enhanced SIS is also designed to mitigate noise impacts (and

³⁵⁶ CD3.7.02

³⁵⁷ CD3.5.04, page 80, para 3.122

associated environmental and health impacts) of the proposal in accordance with LP policies T8 and D13 respectively, as well as NLP policies SP2 and SP8.

- 14.249 Furthermore, the DoV secures the entry into new Neighbouring Authority Agreements to incorporate the SIS enhancements to enable the relevant authorities (Tower Hamlets and Greenwich) to enforce the SIS directly in their respective areas.
- 14.250 In respect of the changes to the Intermediate Tier Scheme to include extension of eligibility to dwellings within the 60 dB LAeq,16h summer weekend daytime contour, we do not consider that this extension would be necessary to make the development acceptable in planning terms; directly related to the development; or fairly and reasonably related in scale and kind to the development. This is based on the ability in principle to increase growth within existing hours of operation, and therefore the extension to the weekend daytime contour would not comply with Regulation 122 of the CIL Regulations.

Schedule 20 - London City Airport Community Fund

- 14.251 The DoV secures enhancements to the London City Airport Community Fund (LCACF). The DoV secures payment of £3.85m into the LCACF for a period of 10 years from implementation of the s73 permission. This would equate to £385,000 per annum compared to £75,000 currently.
- 14.252 The remit of the LCACF is expanded to cover eligible projects which have as their objective 'Improving amenity in areas local to the Airport and along its flight paths including, but not limited to, creation of/improvements to playgrounds, parks, sporting facilities and community recreation facilities.'
- 14.253 The enhanced LCACF would accord with Policy SP2 of the NLP which seeks to provide new or improved inclusive open space and sports facilities. Such additional contributions towards the improved provision of amenity space would be necessary to make the proposal acceptable.
- 14.254 The enhanced LCACF would be used to fund a variety of community projects to improve amenity in areas local to the Airport and along its flight paths, with an emphasis on providing mitigation for the noise impacts associated with the Saturday afternoon flights.³⁵⁸
- 14.255 Having regard to the emphasis on compensating for the reduction in curfew on a Saturday afternoon and associated noise impacts in outdoor areas, we consider that should the restriction on Saturday afternoon hours remain in place, the enhanced contribution of £3.85m would not be necessary to make the development acceptable in planning terms; directly related to the development; or fairly and reasonably related in scale and kind to the development. However, the existing LCACF itself would remain secured.

Schedule 21 - Sustainable Transport Fund

- 14.256 The DoV secures a STF which would be used towards surface access projects and which would in turn contribute to the Airport achieving its mode share

³⁵⁸ As set out in INQ11, page 4, para 4.6

target. The DoV includes an obligation for LCY to achieve an increase in passenger journeys to and from the Airport to be undertaken by sustainable modes of transport at a target of 80% by 2030, which would be assisted by the STF.

- 14.257 The STF would be established and operated for no less than 7 years from implementation, and would make a minimum of £2 million per annum available for these purposes.
- 14.258 The contribution was derived by reference to LCY achieving the target mode share through qualifying initiatives, being flexible in its approach so that it can adapted depending on the transport provider.
- 14.259 The passenger sustainable transport target is underpinned by Policy T8, criteria F, of the LP, and the STF would directly support this target. We are satisfied that it would comply with Regulation 122 of the CIL Regulations.

Schedule 22 - Carbon and Climate Change Action Plan

- 14.260 The DoV secures the submission for LBN's approval of a Carbon and Climate Change Action Plan (CCCAP) setting out measures to deliver LCY's aim to become London's first net zero airport by 2030.
- 14.261 The CCCAP would include targets relating to a reduction in those emissions controlled by the Airport; net zero flight emissions; and BREEAM certification for buildings associated with the Development.
- 14.262 The targets would collectively comply with Policy T8 of the London Plan in meeting external and environmental costs in respect of climate change, and the aims of the national JJS in respect of reducing aviation emissions to net zero by 2020. We are satisfied that it would comply with Regulation 122 of the CIL Regulations.

DoV Conclusion

- 14.263 Other than those specific areas we have highlighted, we are satisfied that the amendments, as explained above, are necessary to make the development acceptable in planning terms; are directly related to the development; and fairly and reasonably related in scale and kind to the development. Accordingly, the DoV would comply with Regulation 122 of the CIL Regulations.

15. Recommendation

- 15.1 Overall, we consider that the conditions restricting operating hours on Saturdays are reasonable, necessary and continues to serve a planning purpose.
- 15.2 However, in light of the evidence in respect of need, we consider that it would be possible to allow the appeal and grant consent but maintain the existing curfew period. This would enable the airport to grow, the socio-economic benefits to be realised (albeit over a longer time period), while continuing the mitigation for local residents in terms of noise effects.

Inspector recommendation

- 15.3 We therefore recommend that the appeal should be allowed, keeping a curfew on Saturday afternoon, and planning permission granted with the attached schedule of conditions in Annex E. As discussed above, the obligations contained within the DoV are also necessary, with the exception of those under schedules 8 and 9, and the enhanced contribution under schedule 20, which can be amended under the blue pencil clause.

Alternative option 1

- 15.4 Should the SoS not consider it appropriate to allow the appeal through retaining some conditions but changing others, we recommend that the appeal is dismissed. This is on the basis of the noise effects on a Saturday afternoon upon local communities and the fact that that many of the benefits could be realised without causing the harm. As such there would be no overriding public benefits, nor would it adequately attend to the environmental impacts and achieve good neighbourliness and fairness.
- 15.5 In this circumstance, we would not consider that the adverse effects would be outweighed by the benefits of the scheme. The proposed amendments would be in conflict with LP Policies T8, D13 and NLP Policy SP2 and SP8. There would also be conflict with Government policy in the APF, MBU, ANPS, and OANPS.

Alternative option 2

- 15.6 Finally, we recognise that the SoS may not agree with either approach and may wish to allow the appeal under the terms sought by LCY, including the removal of the Saturday afternoon curfew.
- 15.7 Should that be the case, planning permission should be granted subject to the conditions in Annex E, but with condition 7 (Aircraft maintenance and Repair), condition 16 (Aircraft take-off and land times), condition 20 (maximum permitted actual aircraft movements), condition 36 (Passenger Terminal Opening Times), condition 43 (Ground Running, Testing and Maintenance) and condition 88 (Additional flight slots limited to newer generation aircraft) substituted. The replacement conditions are contained within Annex F.
- 15.8 In respect of the DoV, should the SoS wish to allow the appeal under the terms sought by LCY, including the removal of the Saturday afternoon curfew, we consider that the contributions secured within the DoV would be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. Accordingly, the DoV in that instance should be retained as drafted.

C Searson

APPOINTED INSPECTOR

J Ayres

ASSISTANT INSPECTOR

ANNEX A – APPEARANCES

FOR LONDON BOROUGH OF NEWHAM

Simon Randle KC and Timothy Straker KC instructed by Amanda Campbell, Solicitor for the Council of the London Borough of Newham

They called:

Mr Rupert M Thornely-Taylor FIIAV MINCE PPANC	Director, Rupert Taylor Ltd
Dr Chris Smith BA(Hons) MA PhD	Chris Smith Aviation Consultancy Limited
Mr Liam McFadden BSc MA	Principal Planning Officer

Additional participants at the Conditions and Obligations Round Table Session:

Duncan Ayles	Airport Monitoring Officer
James Bolt	Senior Development Manager
Amanda-Jayne Campbell	Solicitor and Acting Advocate
Edvarda Salinaite	Legal Team

FOR LONDON CITY AIRPORT

Michael Humphries KC and Daisy Noble of Counsel instructed by Duncan Field, Town Legal LLP

They called:

Louise Congdon BA MSc	Managing Partner, York Aviation LLP
Richard Greer BSc(Hons)	Director, Arup
Sean Bashforth BA BSc MRTPI	Senior Director, Quod

Additional participant at the Conditions and Obligations Round Table Session:

Duncan Field	Partner, Town Legal LLP (Instructing Solicitors)
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FOR HACAN EAST

Estelle Dehon KC and Lois Lane of Counsel instructed by Mr Stewart, Chair of HACAN East

They called:

Dr Alex Chapman BSc PhD	Senior Economist, New Economics Foundation
John Stewart	Chair, HACAN East
Dr Cristian Nold PhD	Design Lecturer, Open University
Mr Jake Farmer BA MRTPI	DLP Planning Ltd

INTERESTED PERSONS

Sir Stephen Timms MP	MP for East Ham
John Cryer MP	MP for Leyton and Wanstead
J Laidler	Local resident
A Tarawally	Local resident
R Rudulov	Local resident
Councillor J Blackman	Councillor for Wanstead Village, Cabinet Member for Environment and Sustainability for London Borough of Redbridge
K Maclean	Local resident
T Persighetti	Local resident
A Sharp	Local resident
E Gere	Local resident
C Joseph	Local resident
J Viall	Local resident
P Sanders	Local resident
L Johnson	Newham Chamber of Commerce
R Callender	Local resident
C Rayney	Local resident
A Gromov	Local resident
N Hart	Representative of NASSA
I Wong	Local resident
G Boon	Local resident
T Dunne	Local resident
M Mendes	General Manager of Courtyard Hotel
G Webb	Local resident

ANNEX B: CORE DOCUMENTS

Core Documents can be accessed at: [Core Documents - Gateley \(gateleyhamer-pi.com\)](https://gateleyhamer-pi.com)

For ease of reference, these have been split into the following sections:

CD-1	Documents and drawings submitted with the S73 CADP1 Application
CD-2	CADP1 Application (ref. 13/01228/FUL)
CD-3	Legislation, Policy and Guidance Documents
CD-4	CADP1 S73 Post Application Submission
CD-5	CADP1 S73 Pre-Application Submission
CD-6	CADP1 S73 Appeal Documents
CD-7	Planning History Decision Notices
CD-8	Other Airport Decisions
CD-9	LCY Annual Performance Reports
CD-10	Statements of Case
CD-11	Statement of Common Ground
CD-12	S.106 Agreements

Proofs of Evidence can be accessed at: [Proofs of Evidence - Gateley \(gateleyhamer-pi.com\)](https://gateleyhamer-pi.com)

ANNEX C: DOCUMENTS SUBMITTED DURING THE INQUIRY

Inquiry Documents can be accessed at: [Documents Submitted During Inquiry - Gateley \(gateleyhamer-pi.com\)](https://gateleyhamer-pi.com)

INQ-01	London Borough of Newham (LBN) Opening Statement
INQ-02	HACAN East (HACAN) Opening Statement
INQ-03	London City Airport (LCY) Opening Statement
INQ-04	Sir Stephen Timms Statement
INQ-05	J Laidler Statement
INQ-06	R Radulov Statement
INQ-07	Cllr J Blackman Statement
INQ-08	K MacLean Statement
INQ-09	Email exchange between New Economics Foundation and Dept. for Transport between 30.11.23 and 5.12.23
INQ-10	Business Leisure Passenger Shares Tables
INQ-11	CIL Regulations Compliance Statement 06.12.23
INQ-12	Webtag Tag Unit A5.2 Aviation Appraisal May 2018
INQ-13	Tag Unit A5-2 Aviation Appraisal (2023)
INQ-14	DfT Letter to PINs dated 5 December 2023
INQ-15.1	Draft Itinerary for Inspector Site Visit on 08.12.23
INQ-15.2	Unaccompanied Flight Path Site Visit
INQ-16.1	Revised s106 Agreement dated 20 December 23
INQ-16.2	Revised s106 Agreement (tracked changes) dated 20 December 23
INQ-17	CADP Need Statement July 2013
INQ-18	National Planning Policy Framework Updated December 2023
INQ-19	CAA Passenger Survey - Income data for airports serving London (Gatwick, Heathrow, London City, Luton & Stanstead worksheets)
INQ-20	R Greer NPPF Proof Update
INQ-21	S Bashforth APP3A NPPF Updates
INQ-22	L McFadden NPPF Updates to Proof
INQ-23	Jake Farmer - Proof with updated NPPF references
INQ-24	Appellant's Response on application of EU598 24 January 2024
INQ-25	Dr Chapman's Additional Note 24-1-24
INQ-26	Teresa Persighetti Statement
INQ-27	Anne Sharp Statement
INQ-28	Committee Update Report 3 Feb 2015
INQ-29	Louise Congdon Inquiry Note on Carbon and Noise Costs
INQ-30	Fifth Deed of Variation to CADP1 S106 Agreement - 26 January 2024 (supersedes INQ16.1 and INQ16.2)
INQ-31	Inquiry Note on Draft Condition 1 February 2024
INQ-32	LBN Closing Statement
INQ-33	HACAN East Closing Submission
INQ-34	London City Airport Closing Statement

ANNEX D – LIST OF DISPUTED CONDITIONS AND REASONS SUBJECT OF THE APPEAL

These are the conditions as taken from Approved Application Ref: 13/01228/FUL, allowed on appeal Ref APP/G5750/W/15/3035673 dated 26 July 2016.³⁵⁹

2. Approved Drawings and Documents

The Development shall be carried out in accordance with the Approved Plans and the following documents:

- Design and Access Statement (July 2013)
- Design and Access Statement Addendum (March 2014)
- Update to Design and Access Statement (September 2015)
- Energy and Low Carbon Strategy (July 2013)
- Update to Energy and Low Carbon Strategy (August 2015)
- Sustainability Statement (July 2013)
- Update to Sustainability Statement (September 2015)
- Updated Transport Assessment (September 2015)

Reason: To ensure that the development is undertaken in accordance with the approved drawings and documents on which this decision is based.

8. Aircraft Maintenance and Repair

Except in exceptional circumstances, no maintenance or repair work of aircraft and/or aircraft related machinery which causes noise that is audible at the Airport Boundary and/or at any Sensitive Receptor shall take place at the Airport other than between the hours of:

- 0630 and 2200 Monday to Friday inclusive;
- 0630 and 1230 on Saturday;
- 1230 and 2200 on Sunday; and
- 0900 and 2200 on Bank Holidays and Public Holidays.

All such activity outside the specified hours set out above causing noise that is audible at the Airport Boundary shall be reported to the local planning authority within 24 hours of occurrence.

Reason: To safeguard residential amenity from non-essential maintenance works and use of the Airport and to ensure that the Airport does not cause unacceptable harm to the amenity of surrounding land and buildings, particularly given the Airport's proximity to Sensitive Receptor.

12. Number of Aircraft Stands and Position

The number of aircraft stands for scheduled Aircraft Movements shall not exceed 25 at any time and shall be located within the area shaded on Plan P4.

Reason: To ensure that the development is undertaken in accordance with the approved drawings and documents and the UES; and to protect local amenity.

³⁵⁹ CD7.8

17. Aircraft Take-Off and Land Times

Except in cases of immediate emergency to an aircraft and/or the persons on board, the Airport shall not be used for the taking off or landing of aircraft at any time other than between the hours of:

- 0630 and 2200 on Monday to Friday inclusive;
- 0900 and 2200 on Bank Holidays and Public Holidays (with the exception of Christmas Day in condition 27);
- 0630 and 1230 on Saturdays; and
- 1230 and 2200 on Sundays;

provided that these restrictions shall not prevent an aircraft which was scheduled to take-off from or land at the Airport but which has suffered unavoidable operational delays, from taking off or landing at the Airport between 2200 hours and 2230 hours Sunday to Friday and 1230 hours to 1300 hours on Saturday and where that taking off or landing would not result in there being more than 400 Aircraft Movements at the Airport per calendar year outside the above permitted hours of operation comprising no more than 150 such movements in any consecutive three months.

Reason: In the interests of limiting the number of aircraft movements in order to protect the amenity of current and future occupants and neighbours and with regard to saved policy EQ47 of the London Borough of Newham Unitary Development Plan (adopted June 2001 and saved from 27 September 2007 by direction from the Secretary of State and not deleted on adoption of the Core Strategy on 26 January 2012), policy 7.15 of the London Plan (consolidated with alterations since 2011 and published March 2015), and policies SP2 and SP3 of the Newham Core Strategy (adopted 26 January 2012).

23. Maximum Permitted Actual Aircraft Movements (days/year)

The number of Actual Aircraft Movements at the Airport shall not exceed:

- a) 100 per day on Saturdays;
- b) 200 per day on Sundays but not exceeding 280 on any consecutive Saturday and Sunday;
- c) subject to (d) to (j) below 592 per day on weekdays; and
- d) 132 on 1 January;
- e) 164 on Good Friday;
- f) 198 on Easter Monday;
- g) 248 on the May Day Holiday;
- h) 230 on the late May Bank Holiday;
- i) 230 on the late August Bank Holiday;
- j) 100 on 26 December; and
- k) 111,000 per calendar year.

Reason: In the interests of limiting the number of aircraft movements in order to protect the amenity of current and future occupants and neighbours and with regard to saved policy EQ47 of the London Borough of Newham Unitary Development Plan (adopted June 2001 and saved from 27 September 2007 by direction from the Secretary of State and not deleted on adoption of the Core Strategy on 26 January 2012), policy 7.15 of the London Plan (consolidated with alterations since 2011 and published March 2015), and policies SP2 and SP3 of the Newham Core Strategy (adopted 26 January 2012).

25. Maximum Permitted Actual Aircraft Movement limit between 0630 hours and 0659 hours on Mondays to Saturdays

The maximum number of Actual Aircraft Movements between 0630 and 0659 hours on Mondays to Saturdays (excluding Bank Holidays and Public Holidays when the Airport shall be closed for the use or operation of aircraft between these times) shall not exceed 6 on any day.

Reason: In the interests of limiting the number of aircraft movements to protect the amenity of current and future occupants and neighbours and with regard to saved policy EQ47 of the London Borough of Newham Unitary Development Plan (adopted June 2001 and saved from 27 September 2007 by direction from the Secretary of State and not deleted on adoption of the Core Strategy on 26 January 2012), policy 7.15 of the London Plan (consolidated with alterations since 2011 and published March 2015), and policies SP2 and SP3 of the Newham Core Strategy (adopted 26 January 2012).

26. Maximum Permitted Actual Aircraft Movement limit between 0630 hours and 0645 hours on Mondays to Saturdays

Notwithstanding the restriction on Actual Aircraft Movements between 0630 hours and 0659 hours, as set out by Condition 25, the total number of Actual Aircraft Movements in the 23 period between 0630 hours and 0645 hours on Mondays to Saturdays (excluding Bank Holidays and Public Holidays when the Airport shall be closed for the use or operation of aircraft between these times), shall not exceed 2 on any day.

Reason: In the interests of limiting the number of aircraft movements and to protect the amenity of current and future occupants and neighbours and with regard to saved policy EQ47 of the London Borough of Newham Unitary Development Plan (adopted June 2001 and saved from 27 September 2007 by direction from the Secretary of State and not deleted on adoption of the Core Strategy on 26 January 2012), policy 7.15 of the London Plan (consolidated with alterations since 2011 and published March 2015), and policies SP2 and SP3 of the Newham Core Strategy (adopted 26 January 2012).

35. The Temporary Facilities

The temporary coaching facility and the temporary outbound baggage extension as shown on the Temporary Facilities Drawings shall cease to operate and shall be removed no later than 5 years from the date of Commencement of Development.

Reason: To safeguard amenity and visual appearance, as the temporary structures are not of sufficient design quality to be retained on a permanent basis.

42. Passenger Terminal Opening Times

No Passenger Terminal Buildings within the Airport shall be open for use operation or trading except between the hours of:

- 0430 and 2230 Monday to Friday;
- 0430 and 1300 on Saturdays;
- 1030 and 2230 on Sundays;

- 0700 and 2230 hours on Public and Bank Holidays; and
- not at all on Christmas Day

In the event that an unavoidable operational delay occurs to an inbound or an outbound aircraft, no Passenger Terminal Building shall be open for use, operation or trading more than 30 minutes after such aircraft has landed or departed from the Airport.

Reason: To safeguard local residential amenity.

43. Passenger Numbers

At no time shall the passenger throughput of the Airport exceed 6.5 million passengers in any twelve month period. A Quarterly Report of the moving annual total number of passengers through the Airport (arrivals plus departures) shall be submitted to the local planning authority no later than 28 days after the end of each Quarter to which the data relates.

Reason: To enable the local planning authority to exercise proper control over the development, in the interests of securing a satisfactory operation of the development and to safeguard the amenities of the surrounding area.

50 Ground Running, Testing and Maintenance

Unless in exceptional circumstances, the Ground Running of aeroplane engines for testing or maintenance purposes shall only take place between the following hours:

- i. 0630 and 2200 Monday to Friday;
- ii. 0630 and 1230 on Saturdays;
- iii. 1230 and 2200 on Sundays;
- iv. 0900 and 2200 on Bank Holidays and Public Holidays (but not at all on Christmas Day); and
- v. in such locations and with such orientation of the aircraft as set out in the approved GRTMS and employing such noise protection measures as set out in the approved GRTMS;

provided that the restrictions above shall not prevent aircraft maintenance work taking place outside of these hours where that work will not be audible at the Airport Boundary or at any Sensitive Receptor and provided this restriction shall not prevent Auxiliary Power Unit usage for essential conditioning of aircraft cabins and equipment prior to departure limited to a maximum of 10 minutes before an aircraft's departure from the stand or 10 minutes after arrival on the stand.

Reason: In the interests of protecting environmental amenity from noise impacts at sensitive parts of the day.

ANNEX E – SCHEDULE OF RECOMMENDED CONDITIONS

1. Approved Drawings and Documents

The Development shall be carried out in accordance with the Approved Plans and the following documents:

Transport Assessment (December 2022)

Design and Access Statement (July 2013), as amended by Design and Access Addendum (March 2014),

Update to Design and Access Statement (September 2015) and Design Development Report (December 2022)

Reason: To ensure that the development is undertaken in accordance with the approved drawings and documents on which this decision is based.

2. Environmental Statement

The Development shall be carried out in accordance with the environmental standards, mitigation measures, requirements, recommendations and methods of implementing the Development contained in the Updated Environmental Statement and revisions, February 2016 as approved under 13/01228/FUL and the Environmental Statement dated December 2022 submitted with application 22/03045/VAR.

Reason: To ensure that the Development is carried out in accordance with the Updated Environmental Statement and revisions dated February 2016, and the Environmental Statement dated December 2022, and the mitigation measures proposed therein.

3. Construction Phasing Plan

Development shall only be carried out in accordance with the approved Construction Phasing Plan as approved under application 19/02619/AOD (dated 20 December 2019) or a revised Construction Phasing Plan which shall be submitted to and agreed in writing by the local planning authority.

Reason: To ensure that the development is constructed in accordance with the Updated Environmental Statement dated February 2016 and Environmental Statement dated December 2022.

4. Quantum of Development

In the event of there being any discrepancy between the figures as shown on the approved drawings and as set out in the approved documents listed in Condition 1, the figures specified in this condition shall prevail:

- a) the total quantum of development within the Western Terminal Extension shall not exceed 24,612 m² (including the Western Energy Centre, Western Terminal Extension, Terminal Building, Total Non-Airside Retail, Total Airside Retail, Terminal Non-Airside Offices and Service Yard);
- b) the total quantum of the Facilitating Works (comprising the Coaching Building,) shall not exceed 1,053 m²;
- c) the total quantum of development within the Eastern Terminal Extension shall not exceed 2 36,988 m² (including the Eastern Terminal Development, Total Non-Airside Retail, Total Airside Retail and Terminal Non-Airside Offices);
- d) the Eastern Energy Centre shall not exceed 527 m²;

- e) the Airfield Extension shall not exceed 7.54 hectares; and
- f) the Terminal Forecourt shall not exceed 17,890 m² (excluding Hartmann Road).

Reason: To ensure that the quantum of floorspace remains within the areas assessed pursuant to the Updated Environmental Statement dated February 2016 and Environmental Statement dated December 2022 for the development.

5. Noise Barrier Phasing

The development shall be carried out in accordance with plans A400-ATK-S-01-XXX-XX-DRXX-247-991 01 S2 (Temporary Noise Barrier General Arrangement Layout) and A400-ATK-- 01-XXX-XX-D-XX-247-992 01 S2 (Temporary Noise Barrier Plan and Elevations) as approved under reference 19/02620/AOD (dated 4 December 2019) unless alternative or amended noise barrier details are agreed in writing by the local planning authority.

The applied temporary mitigation shall be installed prior to the operation of the new or modified stands as shown on Plan P1 and retained until replaced by the permanent noise mitigation measure which shall be retained thereafter.

Reason: In line with the mitigation measures set out within the Updated Environmental Statement dated February 2016 and Environmental Statement dated December 2022 to protect the amenity of current and future occupants and neighbours

6. Restrictions on Use

Save to the extent mentioned below, the Airport shall only be used as an airport and for the provision of air services ancillary thereto and for no other purpose.

For the avoidance of doubt the Airport shall only be used for training or test flying where it is necessary for the safe and efficient operation of the Airport, the safety of aircraft using the Airport, or to ensure compliance with the conditions attached to this planning permission or other regulatory controls over the use of the Airport.

This condition shall not prevent:

- a) the take-off and landing of an aircraft where such training or test flying is carried out elsewhere; or
- b) monitored trial flights taking place for the purpose of Aircraft Categorisation or for the purpose of any Aircraft Categorisation Review; or
- c) pending completion of the development the lawful use of a part of the Airport for purposes unrelated to the provision of air services

Reason: To safeguard residential amenity from non-essential use of the Airport.

7. Aircraft Maintenance and Repair

Except in exceptional circumstances, no maintenance or repair work of aircraft and/or aircraft related machinery which causes noise that is audible at the Airport Boundary and/or at any Sensitive Receptor shall take place at the Airport other than between the hours of:

- 0630 and 2200 Monday to Friday inclusive;
- 0630 and 1230 on Saturday;
- 1230 and 2200 on Sunday; and
- 0900 and 2200 on Bank Holidays and Public Holidays.

All such activity outside the specified hours set out above causing noise that is audible at the Airport Boundary shall be reported to the local planning authority within 24 hours of occurrence.

Reason: To safeguard residential amenity from non-essential maintenance works and use of the Airport and to ensure that the Airport does not cause unacceptable harm to the amenity of surrounding land and buildings, particularly given the Airport's proximity to Sensitive Receptor.

8. Restrictions on Development (Design Code)

No additional hard surface to that shown on Plan P4 (rev A) shall be constructed unless a noise report is submitted to the local planning authority confirming that the noise impacts arising from the proposed development will be no worse than those assessed in the Updated Environmental Statement, dated February 2016 and Environmental Statement, dated December 2022, at any of the nearest Sensitive Receptors outside the Airport Boundary.

Reason: To ensure that the development is undertaken in accordance with the approved drawings and documents and to ensure that the Airport does not cause unacceptable harm to the amenity of surrounding land and buildings

9. Restrictions on Development (Hard Surfaces)

No additional hard surface to that shown on Plan P4 (rev A) shall be constructed unless a noise report is submitted to the local planning authority confirming that the noise impacts arising from the proposed development will be no worse than those assessed in the Updated Environmental Statement, dated February 2016, and Environmental Statement dated December 2022 at any of the nearest Sensitive Receptors outside the Airport Boundary.

Reason: To ensure that the development is undertaken in accordance with the approved drawings and documents and to ensure that the Airport does not cause unacceptable harm to the amenity of surrounding land and buildings.

10. Restrictions on Development (Buildings)

Within the areas shown on Plan P5 prior to the erection, extension, alteration or change of use of a building, a noise report shall be submitted to the local planning authority confirming that the noise impacts arising from the proposed development will be no worse than those assessed in the Updated Environmental Statement, dated February 2016 and Environmental Statement dated December 2022 at any of the nearest Sensitive Receptors outside the Airport Boundary.

Reason: To ensure that the development is undertaken in accordance with the approved drawings and documents and to ensure that the Airport does not cause unacceptable harm to the amenity of surrounding land and buildings.

11. Number of Aircraft Stands and Position

The number of aircraft stands for scheduled Aircraft Movements shall not exceed 25 at any time and shall be located within the area shaded on Plan P4 (rev A).

Reason: To ensure that the development is undertaken in accordance with the approved drawings and documents and the Updated Environmental

Statement, dated February 2016 and Environmental Statement dated December 2022; and to protect local amenity.

12. Runway Length

The length of the declared runway shall not exceed 1199 metres.

Reason: To ensure that the development is undertaken in accordance with the approved drawings and documents and the undertaken in accordance with the approved drawings and documents and the Updated Environmental Statement, dated February 2016 and Environmental Statement dated December 2022; and to protect local amenity

13. Aircraft

Except in cases of immediate emergency to an aircraft and/or the persons on board, only conventional take-off and landing fixed-wing aircraft, including short take-off and landing aircraft, but not vertical take-off and landing aircraft (including helicopters, tilt-rotor or gyrocopters), shall be permitted to use the Airport.

Reason: To control the development and ensure that it is undertaken in accordance with the approved drawings and documents and the Updated Environmental Statement, dated February 2016 and Environmental Statement dated December 2022; and to protect local amenity.

14. AVRO RJ100

No AVRO RJ100 type aircraft (or any variant thereof) shall operate from the Airport at any time unless it has been demonstrated to and approved in writing by the local planning authority that noise from such Aircraft does not exceed the maximum noise levels specified in any approved scheme under Condition 17.

Reason: To protect the amenity of current and future occupants and neighbours.

15. Prohibition on Recreational Flying

Except in cases of immediate emergency to an aircraft and/or the persons on board, the Airport shall not be used for any form of club or recreational flying.

Reason: To protect the amenity of current and future occupants and neighbours.

16. Aircraft Take-Off and Land Times

Except in cases of immediate emergency to an aircraft and/or the persons on board, the Airport shall not be used for the taking off or landing of aircraft at any time other than between the hours of:

- 0630 and 2200 on Monday to Friday inclusive;
- 0900 and 2200 on Bank Holidays and Public Holidays (with the exception of Christmas Day in condition 27);
- 0630 and 1230 on Saturdays; and
- 1230 and 2200 on Sundays;

provided that these restrictions shall not prevent an aircraft which was scheduled to take-off from or land at the Airport but which has suffered unavoidable operational delays, from taking off or landing at the Airport between 2200 hours and 2230 hours Sunday to Friday and 1230 hours to 1300

hours on Saturday and where that taking off or landing would not result in there being more than 400 Aircraft Movements at the Airport per calendar year outside the above permitted hours of operation comprising no more than 150 such movements in any consecutive three months.

Reason: In the interests of limiting the number of aircraft movements in order to protect the amenity of current and future occupants and neighbours.

17. Aircraft Noise Categorisation Scheme

The Airport shall be operated in accordance with the following documents as approved under reference 22/00807/AOD (dated 17 June 2022) and any review thereof that has been approved in writing by the local planning authority:

- i) 'Aircraft Noise Categorisation Scheme 2022 Update' (dated March 2022); and
- ii) '2022 Review of Aircraft Noise Categorisation Scheme' (dated 22 March 2022);

No aircraft shall land at or take-off from the Airport unless the type of aircraft has first been categorised in accordance with the approved Aircraft Noise Categorisation Scheme.

Reason: In the interests of controlling aircraft movements in order to protect the amenity of current and future occupants and neighbours.

18. Review and Reporting on the Approved Aircraft Noise Categorisation Scheme

Following approval of the Aircraft Noise Categorisation Scheme approved pursuant to Condition 17:

- a) a report shall be submitted to the local planning authority annually on 1 June or the first working day thereafter as part of the Annual Performance Report on the performance and/or compliance with the approved Aircraft Noise Categorisation Scheme during the previous calendar year; and
- b) the approved Aircraft Noise Categorisation Scheme shall be reviewed not later than the 5th year after approval and every 5th year thereafter. The reviews shall be submitted to the local planning authority within 3 months of such review dates for written approval and implemented in accordance with an approved timeframe and maintained thereafter.

Reason: In the interests of controlling aircraft movements in order to protect the amenity of current and future occupants and neighbours.

19. Maximum Permitted Actual Aircraft Movements per hour as Timetabled

The scheduled number of Actual Aircraft Movements including business, commercial, charter and private Aircraft Movements shall not exceed 45 in total in any given hour.

Reason: In the interests of limiting the number of aircraft movements in the peak periods in order to protect the amenity of current and future occupants and neighbours.

20. Maximum Permitted Actual Aircraft Movements (day/year)

The number of Actual Aircraft Movements at the Airport shall not exceed:

- a) 100 per day on Saturdays
- b) 200 per day on Sundays but not exceeding 400 on any consecutive Saturday and Sunday;
- c) subject to (d) to (j) below 592 per day on weekdays; and
- d) 132 on 1 January;
- e) 164 on Good Friday;
- f) 198 on Easter Monday;
- g) 248 on the May Day Holiday;
- h) 230 on the late May Bank Holiday;
- i) 230 on the late August Bank Holiday;
- j) 100 on 26 December; and
- k) 111,000 per calendar year.

Reason: In the interests of limiting the number of aircraft movements in order to protect the amenity of current and future occupants and neighbours.

21. Maximum Permitted Actual Aircraft Movement on other Bank Holidays

In the event of there being a Bank Holiday or Public Holiday in England which falls upon or is proclaimed or declared upon a date not referred to in sub-paragraph (d) to (j) inclusive of Condition 20, the number of Aircraft Movements on that date shall not exceed 330 unless otherwise agreed in writing by the local planning authority but in any event shall not exceed 396.

Reason: In the interests of limiting the number of aircraft movements in order to safeguard the quality of life in the local area.

22. Maximum Permitted Actual Aircraft Movement limit between 0630 hours and 0659 hours on Mondays to Saturdays

The maximum number of Actual Aircraft Movements between 0630 and 0659 hours on Mondays to Saturdays (excluding Bank Holidays and Public Holidays when the Airport shall be closed for the use or operation of aircraft between these times) shall not exceed 9 on any day.

Reason: In the interests of limiting the number of aircraft movements and to protect the amenity of current and future occupants and neighbours.

23. Maximum Permitted Actual Aircraft Movement limit between 0630 hours and 0645 hours on Mondays to Saturdays

Notwithstanding the restriction on Actual Aircraft Movements between 0630 hours and 0659 hours, as set out by Condition 22, the total number of Actual Aircraft Movements in the period between 0630 hours and 0645 hours on Mondays to Saturdays (excluding Bank Holidays and Public Holidays when the Airport shall be closed for the use or operation of aircraft between these times), shall not exceed 4 on any day.

Reason: In the interests of limiting the number of aircraft movements and to protect the amenity of current and future occupants and neighbours.

24. Christmas Day Closure

The Airport shall be closed on Christmas Day each year for the use or operation or maintenance of aircraft or for passengers, with no Aircraft Movements and no Ground Running by aircraft engines.

Reason: In the interests of limiting the number of aircraft movements to protect the amenity of current and future occupants and neighbours.

25. Noise Management and Mitigation Strategy (NOMMS)

The Airport shall be operated in accordance with the 'Condition 31: Noise Management and Mitigation Strategy' dated August 2022 and '2022 Review of Noise Monitoring and Mitigation Strategy' dated 17 May 2022 approved under reference 22/02035/AOD (dated 27 September 2022) and any review under this condition.

A report shall be submitted to the local planning authority annually on 1 June (or the first working day thereafter) as part of the Annual Performance Report on the performance and compliance with the approved NOMMS during the previous 12 month period.

The approved NOMMS shall be reviewed not later than the 5th year after approval and every 5th year thereafter. The reviews shall be submitted to the local planning authority within 3 months of such review dates for approval in writing and implemented as so approved.

Every NOMMS review shall include, but not be limited to:

- Combined Noise and Track Monitoring System;
- Quiet Operating Procedures;
- Penalties and Incentives;
- Control of Ground Noise;
- Airport Consultative Committee;
- Annual Noise Contours;
- Integrity of NOMMS;
- Auxiliary Power Units;
- Reverse Thrust; and
- Sound Insulation Scheme.

Reason: In the interests of limiting noise and to protect the amenity of current and future occupants and neighbours.

26. Additional Noise Monitoring Terminals

The noise monitoring terminals 1 to 6 inclusive as shown on Plan P6 (or in the form of such alternative equipment and/or locations as are submitted to and approved in writing by the local planning authority) shall remain in place and operational.

Reason: To ensure that adequate terminals are in place to monitor noise in the interests of residential amenity.

27. Fixing the Size of the Noise Contour

The area enclosed by the 57dB $L_{Aeq\ 16hr}$ Contour shall not exceed 9.1 km² when calculated by the Federal Aviation Authority Integrated Noise Model Version 7 or later version.

The Airport shall be operated in accordance with the 'Noise Contour Strategy 2022' document dated 20 October 2022 approved under reference 22/02528/AOD (dated 24 January 2023). The approved Noise Contour Strategy to reduce the Contour area by 2030 shall be reviewed not later than the 5th year after approval and every 5th year thereafter in order to seek further reductions in the size of the Noise Contour by 2030 and beyond. The reviews shall be

submitted to the local planning authority for approval in writing within 3 months of such review dates and implemented as approved.

The area enclosed by the 57dB $L_{Aeq\ 16hr}$ Contour shall not exceed 7.2 km² when calculated by the Federal Aviation Authority Integrated Noise Model Version 7 or later version, from the time that the passenger throughput of the Airport first reaches 9 million passengers in any twelve month period.

Reason: To ensure that the development is constructed in accordance with the Updated Environmental Statement dated February 2016 and Environmental Statement dated December 2022.

28. Design

No building within the development hereby approved shall be constructed until details and samples of the materials to be used in the external elevations, fenestrations and roofs of the building(s) and Noise Barriers have been submitted to and approved in writing by the local planning authority.

The details submitted shall be to a scale agreed with the local planning authority in writing prior to submission. The development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory standard of external appearance, protect local amenity

29. The Temporary Facilities

The temporary coaching facility and the temporary outbound baggage extension as shown on the Temporary Facilities Drawings shall cease to operate and shall be removed in accordance with the details approved in the Construction Phasing Plan approved pursuant to Condition 3.

Reason: To safeguard amenity and visual appearance, as the temporary structures are not of sufficient design quality to be retained on a permanent basis.

30. Landscape

The development shall be carried out in accordance with the 'Condition 36 Landscape' document dated December 2018 as approved under reference 18/03472/AOD (dated 23 January 2019) and the updates within Appendix 2 of the covering letter dated 17 September 2019 approved under reference 19/02559/AOD (dated 20 December 2019) unless an alternative or amended landscaping scheme is agreed in writing by the local planning authority.

Each submitted landscape scheme shall be in accordance with the Landscape Drawings.

All landscaping schemes and all planting shall make such planting unattractive to birds so as not to have an adverse effect on the safety of operations at London City Airport by encouraging bird roosting and creating sources of food for birds, and thereby preventing a bird strike threat to aircraft operating at the Airport.

Within one month of the completion of the landscaping scheme for a relevant Phase written confirmation of the completion date shall be submitted to the local planning authority. The scheme as approved shall be implemented in full within the first planting season following completion of each of the agreed Phases within the construction phasing plan agreed pursuant to Condition 3.

If any tree or shrub is removed, uprooted or destroyed or dies, or becomes in the opinion of the local planning authority, damaged, diseased or defective, another tree or shrub of the same species and size as that originally planted shall be replanted in the same location or as otherwise detailed in the scheme.

Reason: To ensure a satisfactory standard of external appearance of the development and in the interest of the safe operation of London City Airport.

31. Dockside Access

The taxi feeder park and car parks hereby approved shall not be brought into use unless and until measures to create and retain the pedestrian access along the Dock Edge (south of King George V Dock) and a programme for the implementation of these measures have first been submitted to the local planning authority for approval in writing. The measures shall be completed in accordance with the approved details and programme. The pedestrian access shall be retained thereafter.

Reason: For the purposes of good design and to improve connectivity and access around the Royal Docks.

32. Details of Screening of Plant

The development shall be carried out in accordance with the 'Condition 38: Plant Screening Version 2' document dated December 2018 as approved under reference 18/03472/AOD (dated 23 January 2019) and the updates within Appendix 2 of the covering letter dated 17 September 2019 approved under reference 19/02559/AOD (dated 20 December 2019) unless an alternative or amended screen strategy is agreed in writing with the local planning authority.

No part of a relevant Phase shall be brought into use until the plant screening strategy for that Phase as approved has been implemented. The approved plant screening strategy for that Phase shall be retained thereafter.

Reason: To ensure a satisfactory form of external appearance and in the interest of the amenity of neighbouring properties and the area

33. Contamination

Each Phase of the development shall be carried out in accordance with the 'Condition 39: Contamination' document dated March 2018 as approved under reference 18/00671/AOD (dated 13 July 2018) and the updates within Appendix 2 of the covering letter dated 17 September 2019 approved under reference 19/02559/AOD (dated 20 December 2019) unless an alternative or amended report is agreed in writing with the local planning authority.

Upon commencement of each Phase the approved remediation strategy for that Phase shall be implemented.

If, during the development of a Phase, contamination not previously identified is found to be present within that Phase then no further development in the areas where contamination is identified shall be carried out until a further remediation strategy has been submitted to the local planning authority for approval in writing, detailing how this unsuspected contamination shall be dealt with.

The further remediation strategy shall be implemented as approved.

As soon as reasonably practicable, and before the occupation of any remediated area forming part of a Phase, a validation report shall be submitted to the local

planning authority for approval in writing, stating what works were undertaken and that the remedial scheme was completed in accordance with the approved remediation strategy for that Phase.

Reason: To safeguard the public, the environment and surface and ground water, as this site may have or is known to have been used in the past for activities that are likely to have resulted in it being contaminated with material that is potentially harmful to humans or the environment.

34. Crime Prevention Strategy

The approved development shall be carried out in accordance with the 'Condition 40: Crime Prevention Strategy' document dated March 2017 as approved under reference 17/00947/AOD (dated 24 April 2017) unless an alternative or amended Crime Prevention Strategy is agreed in writing with the local planning authority.

Reason: In the interest of amenity and creating safer, sustainable communities and with regard to policy 7.13 of the London Plan (consolidated with alterations Since 2011 and published March 2015), and policy SP3 of the Newham Core Strategy (adopted 26 January 2012).

35. External Lighting

The approved development shall be carried out in accordance with the 'Condition 41 – External Lighting, Version 2' document dated April 2018 as approved under reference 18/01029/AOD (dated 13 July 2018) and the updates within Appendix 2 of the covering letter dated 17 September 2019 approved under reference 19/02559/AOD (dated 20 December 2019) unless an alternative or amended external lighting scheme is agreed in writing by the local planning authority.

The approved lighting scheme(s) shall be implemented prior to occupation of the relevant Phase of the development and shall be permanently retained thereafter.

Reason: To ensure that safety is not compromised with regard to the principles/practices of Secured by Design; to minimise adverse impacts of light pollution on the highway network; to 10 minimise adverse impacts on the safeguarded area around London City Airport; to ensure that it does not cause a hazard to navigation of the Royal Albert Dock

36. Passenger Terminal Opening Times

No Passenger Terminal Buildings within the Airport shall be open for use operation or trading except between the hours of:

- 0430 and 2230 Monday to Friday;
- 0430 and 1300 on Saturdays;
- 1030 and 2230 on Sundays;
- 0700 and 2230 hours on Public and Bank Holidays; and
- not at all on Christmas Day

In the event that an unavoidable operational delay occurs to an inbound or an outbound aircraft, no Passenger Terminal Building shall be open for use, operation or trading more than 30 minutes after such aircraft has landed or departed from the Airport.

Reason: To safeguard local residential amenity.

37. Passenger Numbers

At no time shall the passenger throughput of the Airport exceed 9 million passengers in any twelve month period.

A Quarterly Report of the moving annual total number of passengers through the Airport (arrivals plus departures) shall be submitted to the local planning authority no later than 28 days after the end of each Quarter to which the data relates.

Reason: To enable the local planning authority to exercise proper control over the development, in the interests of securing a satisfactory operation of the development and to safeguard the amenities of the surrounding area.

38. Ground Power Strategy

The aircraft stands hereby approved shall only be served by Fixed Electrical Ground Power, battery-powered Mobile Ground Power Units or equivalent equipment installed and operated in accordance with the 'Condition 44: Ground Power Strategy Version 1' document dated June 2020 approved under reference 20/01200/NONMAT (dated 10 September 2020) unless an alternative or amended Ground Power Strategy is agreed in writing with the local planning authority.

Reason: In order to minimise noise and disturbance, in the interest of residential amenity and in the interest of protecting environmental amenity.

39. Use of Ground Power

Except in a case of emergency or if faults occur, no aircraft on an operational aircraft stand shall use a diesel Mobile Ground Power Unit for conditioning an aircraft prior to engine start-up or for the starting of an aircraft engine.

Reason: In order to minimise noise and disturbance, in the interest of residential amenity and in the interest of protecting environmental amenity.

40. Auxiliary Power Units (APU)

The approved development shall be carried out in accordance with the 'Condition 47: Auxiliary Power Unit Strategy' document dated February 2020 approved under reference 20/00373/AOD (dated 2 March 2020) unless an alternative or amended Auxiliary Power Unit Strategy is agreed in writing with the local planning authority.

Except in cases of immediate emergency to persons on board an aircraft, or where fault occurs, no APU shall be used other than for essential conditioning of aircraft cabins and equipment prior to departure limited to a maximum of 10 minutes before an aircraft's departure from the stand or 10 minutes after an aircraft's arrival on the stand.

Annually on 1 June (or the first working day thereafter) in each year after the Commencement of Development and as a part of the Annual Performance Report, LCY shall provide a report containing details of the use of APUs at the Airport in the previous calendar year.

Reason: In the interest of protecting environmental amenity from noise and pollution impacts.

41. Ground Engine Running Strategy

The approved development shall be carried out in accordance with the 'Ground Engine Running Strategy 2023 Review' document dated 23 May 2023 approved under reference 23/01194/AOD (dated 25 July 2023) unless an alternative or amended Ground Engine Running Strategy is agreed in writing with the local planning authority.

A report shall be submitted to the local planning authority annually on 1 June (or the first working day thereafter) as part of the Annual Performance Report on the performance and or compliance during the previous calendar year with the approved targets in the Ground Engine Running Strategy.

The Ground Engine Running Strategy shall be reviewed every 3 years from approval and the review shall be submitted to the local planning authority for approval in writing by the following 1 June (or the first working day thereafter) and implemented as approved.

The strategy shall identify measures to:

- minimise engine usage while aircraft occupy stands;
- minimise the duration of engine usage while taxiing; and
- ensure the operators of aircraft at the Airport comply with the approved strategy in order to mitigate as far as practicable the emissions from aircraft engines.

Reason: In the interests of protecting environmental amenity from noise impacts.

42. Ground Running, Testing and Maintenance Strategy

The approved development shall be carried out in accordance with the 'Ground Running, Testing and Maintenance Strategy 2023 Review' dated 26 May 2023 (GRTMS) approved under reference 23/01194/AOD (dated 25 July 2023) unless an alternative or amended GRTMS is agreed in writing by the local planning authority.

A report to the local planning authority shall be submitted annually on 1 June (or the first working day thereafter) as part of the Annual Performance Report on the performance and compliance during the previous calendar year with the targets in the GRTMS. Every 3 years from approval the GRTMS shall be reviewed and the review shall be submitted to the local planning authority for approval in writing by the following 1 June (or the first working day thereafter) and implemented as approved.

Every GRTMS review shall identify:

- the long-term area for testing; and
- areas for testing during periods of construction affecting the long term agreed location.

Reason: In the interests of protecting environmental amenity from noise impacts.

43. Ground Running, Testing and Maintenance

Unless in exceptional circumstances, the Ground Running of aeroplane engines for testing or maintenance purposes shall only take place between the following hours:

- 0630 and 2200 Monday to Friday;
- 0630 and 1230 on Saturdays;

- 1230 and 2200 on Sundays;
- 0900 and 2200 on Bank Holidays and Public Holidays (but not at all on Christmas Day); and
- in such locations and with such orientation of the aircraft as set out in the approved GRTMS and employing such noise protection measures as set out in the approved GRTMS;

provided that the restrictions above shall not prevent aircraft maintenance work taking place outside of these hours where that work will not be audible at the Airport Boundary or at any Sensitive Receptor and provided this restriction shall not prevent Auxiliary Power Unit usage for essential conditioning of aircraft cabins and equipment prior to departure limited to a maximum of 10 minutes before an aircraft's departure from the stand or 10 minutes after arrival on the stand.

Reason: In the interests of protecting environmental amenity from noise impacts at sensitive parts of the day.

44. Ground Run Noise Limit

The noise level arising from Ground Running shall not exceed the Ground Running Noise Limit.

The approved development shall be carried out in accordance with the 'Condition 51: Ground Running Noise Limit Strategy' document dated January 2017 approved under reference 17/00226/AOD (dated 23 March 2017) unless an alternative or amended Ground Running Noise Strategy is agreed in writing by the local planning authority.

Reason: In the interests of protecting environmental amenity from noise impacts.

45. Ground Running Annual Performance Report

The local planning authority shall be provided with the following annually on 1 June (or the first working day thereafter) as part of the Annual Performance Report:

- a) written details of Ground Running that has taken place during the preceding calendar year including details of the number, duration and power setting of ground runs and the types of aircraft involved; and
- b) written measurements and calculations to show whether the Ground Running Noise Limit has been exceeded as a result of Ground Running during the preceding calendar year.

Reason: In the interests of protecting environmental amenity from noise impacts.

46. Permanent Eastern Apron Extension Noise Barrier

The approved development shall be carried out in accordance with the 'Condition 53: Permanent Eastern Apron Extension Noise Barrier' document dated February 2018 approved under reference 18/00552/AOD (dated 12 April 2018) unless alternative or amended noise barrier details are agreed in writing by the local planning authority.

Reason: In the interests of protecting environmental amenity from noise impacts.

47. Retention of all existing Noise Barriers

No part of the Airport shall be used unless all existing noise barriers shown on Plan P7 are in place or alternatives that have been approved pursuant to Condition 5 or Condition 45 are in place. Such noise barriers shall be retained thereafter (provided always that any temporary noise barrier approved pursuant to Condition 6 and/or Condition 83 can be removed subject to the prior approval in writing of the local planning authority).

Reason: In the interests of protecting environmental amenity from noise impacts.

48. Ground Noise Study

The approved development shall be carried out in accordance with the 'Ground Noise Study 2021' document dated 30 July 2021 approved under reference 21/02179/AOD (dated 1 December 2021) unless an alternative or amended

Ground Noise Study is agreed in writing by the local planning authority. Ground noise studies shall be undertaken at intervals of not less than three years from the date of approval. Such additional ground noise studies shall be submitted to the local planning authority within 30 days of their completion. Any necessary mitigation measures identified within those studies shall be implemented as approved.

Reason: In the interests of protecting environmental amenity from noise impacts.

49. Sustainability and Biodiversity Strategy

The approved development shall be carried out in accordance with the 'Condition 56: Sustainability and Biodiversity Strategy Version 1' dated May 2023 approved under application 23/01195/AOD (dated 26 October 2023) unless an alternative or amended Sustainability and Biodiversity Strategy is agreed in writing by the local planning authority.

A report shall be submitted to the local planning authority annually on 1 June (or the first working day thereafter) as part of the Annual Performance Report on the performance and compliance during the previous calendar year with the targets in the approved Sustainability and Biodiversity Strategy/Strategies.

Every 3 years from its approval the Sustainability and Biodiversity Strategy shall be reviewed and the reviews shall be submitted to the local planning authority for approval in writing by the following 1 June (or the first working day thereafter) and implemented as approved.

Reason: In the interest of impacts on biodiversity and maximising the ecological potential of the site.

50. Air Quality Monitoring

The approved development shall be carried out in accordance with the 'Condition 57: Air Quality Monitoring Strategy' dated June 2023 approved under reference 23/01196/AOD (dated 31 July 2023) unless an alternative or amended Air Quality Monitoring Strategy is agreed in writing by the local planning authority and subject to the following provision for monitoring of Ultra-Fine Particles (UFPs) and periodic review of the Air Quality Monitoring Strategy.

Within 6 months of the Implementation of this Planning Permission a monitoring scheme of UFPs in the vicinity of the Airport (to include details of duration,

method and reporting of results) shall be submitted to and agreed in writing by the local planning authority.

The approved scheme of monitoring shall be implemented as part of the Air Quality Monitoring Strategy and first reported to the local planning authority within 12 months of the date of approval of the scheme.

Every 3 years from approval of the first UFP monitoring scheme the Air Quality Monitoring Strategy shall be reviewed and the reviews shall be submitted to the local planning authority 14 for approval in writing by the following 1 June (or the first working day thereafter) and implemented as approved.

Reason: To ensure that the development is constructed in accordance with the Updated Environmental Statement dated February 2016 and Environmental Statement dated December 2022.

51. Air Quality Management Strategy (AQMS)

The approved development shall be carried out in accordance with the 'Air Quality Management Strategy' dated June 2023 approved under reference 23/01196/AOD (dated 31 July 2023) unless an alternative or amended AQMS is approved in writing by the local planning authority.

The AQMS shall be reviewed every three years from the date of approval and the reviews shall be submitted to the local planning authority for approval in writing by the following 1 June (or the first working day thereafter) and implemented as approved.

Reason: To ensure that the development is constructed in accordance with the Updated Environmental Statement dated February 2016 and Environmental Statement dated December 2022.

52. Complaints about Environmental Impact

- 1) A summary record shall be maintained of all complaints about the environmental impact of the operation of the Airport and any action taken to deal with or remedy such complaints.
- 2) A detailed report shall be submitted of all complaints and any action taken:
 - to the local planning authority within 15 days of that complaint being made or that action being undertaken;
 - to the Airport Consultative Committee at the meeting of that committee next following that complaint or that action; and
 - as part of the Annual Performance Report in relation to such complaints and actions in the preceding calendar year.
- 3) Complaint records shall be made available for inspection at all reasonable hours by the local planning authority pursuant to Part 1 of this condition.

Reason: In the interests of monitoring and minimising the environmental impacts of the Airport.

53. Use of the River Thames for Construction

The approved development shall be carried out in accordance with the 'Condition 60: Use of the River Thames for Construction Version 2' document dated May 2017 approved under reference: 17/00534/AOD (dated 12 May 2017) unless an

alternative or amended Strategy is agreed in writing by the local planning authority.

Reason: To ensure that the development accords with the aims and objectives of promoting the use of sustainable use of transport.

54. Energy Assessment and Reduction in Carbon Dioxide Emissions

The development shall be built out in accordance with the Revised Energy and Low Carbon Strategy approved under Condition 2 unless an alternative or amended Strategy is agreed in writing by the local planning authority in consultation with the Greater London Authority.

Reason: To ensure the development makes the fullest contribution to minimising carbon dioxide emissions in accordance with the Mayor of London's energy hierarchy.

55. Archaeology Scheme of Investigation and List of Historic Buildings

The approved development shall be carried out in accordance with the 'Condition 62 – Archaeology Scheme of Investigation and List of Historic Sites' document dated March 2018 approved under reference 18/00671/AOD (dated 13 July 2018) and the updates within Appendix 2 of the covering letter dated 17 September 2019 approved under reference 19/02559/AOD (dated 20 December 2019) unless an alternative or amended Scheme of Archaeological Investigation is agreed in writing with the local planning authority.

Reason: To secure the provision of archaeological investigation and the subsequent recording of the remains prior to development, as the site has archaeological potential in terms of heritage assets of archaeological interest.

56. BREEAM

The approved development shall be carried out in accordance with the 'Condition 63: BREEAM' document dated March 2018 approved under reference 18/00802/AOD (dated 20 April 2018) unless alternative or amended details are agreed in writing with the local planning authority.

Within 6 months of the full occupation of all of the terminal buildings (Eastern Terminal Extension, Western Terminal Extension and New East Pier) a Building Research Establishment certificate confirming that the terminal buildings cumulatively achieve a minimum BREEAM rating of Very Good shall be submitted to the local planning authority for approval in writing. Within 1 month of occupation of any new CADP1 terminal building, a report shall be submitted to the local planning authority to confirm that cumulatively the new terminal buildings will still achieve a minimum BREEAM rating of Very Good.

Reason: In the interests of energy efficiency and sustainability

57. Photovoltaic Panels

The approved development shall be carried out in accordance with the 'Condition 64: Photovoltaic Panels' document dated September 2019 approved under 19/02559/AOD (dated 20 December 2019) unless alternative or amended details are agreed in writing with the local planning authority. The photovoltaic panels shall be installed and retained in accordance with the approved details.

Reason: To encourage and establish sustainable energy use.

58. Crossrail Method Statement

The approved development shall be carried out in accordance with the 'Condition 65: Crossrail Method Statement' document dated February 2018 approved under reference 18/00577/AOD (dated 13 July 2018) and the updates within Appendix 2 of the covering letter dated 17 September 2019 approved under reference 19/02559/AOD (dated 20 December 2019) unless an alternative or amended Crossrail Method Statement is agreed in writing with the local planning authority.

Reason: To ensure there is no conflict in terms of safeguarding or safety with Crossrail.

59. Non-Return Water Valve and Sustainable Urban Drainage

The approved development shall be carried out in accordance with the 'Condition 66: Non Return Water Valve and Sustainable Urban Drainage' document dated May 2018 approved under reference 18/01391/AOD (dated 13 July 2018).

Each Phase of the development shall be implemented in accordance with the approved details unless an alternative or amended Non Return Water Valve and Sustainable Urban Drainage Scheme is agreed in writing with the local planning authority and the above waste and storm water measures shall be retained thereafter.

Reason: To sustainably safeguard the waste and storm water system.

60. Petrol/Oil Interceptors

Prior to operation of the relevant Phase of the development, all new parking areas provided as part of that Phase shall be drained through a petrol/oil interceptor system. This system shall comply with the requirements of Thames Water Utilities and the Environment Agency (Water Acts). Thereafter, the system shall be cleansed and retained in accordance with manufacturer's instructions.

Reasons: To prevent large quantities of oil, petrol and road dirt entering the existing sewerage system.

61. Artificial Fish Refugia (Habitat)

The Artificial Fish Refugia installed on 30 November 2017 as confirmed by reference 18/00671/AOD (dated 13 July 2018) shall be retained in situ unless alternative or amended details are agreed in writing by the local planning authority.

Reason: To improve aquatic ecology in King George V Dock and compensate for the loss of dock wall habitat arising from the development.

62. Sustainable Drainage Systems

The development shall be carried out in accordance with the 'Condition 69: Sustainable Urban Drainage Systems Version 2' document dated May 2018 approved under reference 18/01391/AOD (dated 13 July 2018) unless an alternative or amended scheme is agreed in writing with the local planning authority.

Reason: To prevent the increased risk of flooding to interested parties and to the site itself; to improve water quality; to enhance biodiversity; and to ensure future maintenance of the surface water drainage system.

63. Waste Management Strategy

The approved development shall be operated in accordance with the 'Condition 70 - Waste Management Strategy' dated March 2018 approved under reference

18/00671/AOD (dated 13 July 2019) and the updates within Appendix 2 of the covering letter dated 17 September 2019 approved under reference 19/02559/AOD (dated 20 December 2019) unless an alternative or amended Waste Management Strategy is agreed in writing with the local planning authority. The Waste Management Strategy shall seek to maximise the use of the River Thames and other waterways for the transport of waste materials from the Airport for each Phase of the development and shall be implemented on commencement of development of the relevant Phase.

Reason: To ensure that the development accords with the aims and objectives of promoting the use of sustainable transport.

64. Travel Plan

The Airport shall be operated in accordance with the 'Condition 71: Travel Plan 2023-2025 Version 5' document dated November 2022 approved under application 22/02830/AOD (dated 31 March 2023) or any review of the Travel Plan under this condition.

The approved Travel Plan shall be reviewed in 2025 and every 5th year thereafter. The reviews shall be submitted to the local planning authority within 3 months of such review dates for written approval and implemented in accordance with an approved timeframe and maintained thereafter. The Staff and Passenger Travel Plan review shall include targets for managing any impacts of the Airport's staff and passengers on the local road network; and monitoring procedures for sustainable travel initiatives.

Reason: To ensure that the development accords with the aims and objectives of policy 6.3 of The London Plan (consolidated with alterations Since 2011 and published March 2015), and policy INF2 of the Newham Core Strategy (adopted 26 January 2012).

65. Parking for Disabled People

The car parking accommodation of the approved development shall include at least 3% of passenger and 5% of staff spaces suitable for use by a disabled person (in accordance with the specifications within BS8300: Design of buildings and their approaches to meet the needs of disabled people: Code of Practice).

Reason: To ensure access for people with disabilities.

66. Access Roads and Parking Areas

The access roads and parking areas shall be constructed in accordance with the 'Condition 73: Access Roads and Parking Facilities' document dated August 2017 as approved under reference 17/02871/AOD (dated 27 September 2017) as updated by application reference 18/02102/AOD (dated 29 August 2018) and the updates within Appendix 2 of the covering letter dated 17 September 2019 approved under reference 19/02559/AOD dated (20 December 2019) unless alternative or amended details are agreed in writing with the local planning authority and the access roads and parking areas shall be retained thereafter.

No part of the Eastern Terminal Extension hereby approved shall be occupied until the temporary access roads giving access to the A1117 and a temporary taxi feeder park are provided and which shall remain in place until the permanent access roads and parking areas approved under this condition are completed.

Reason: To ensure the development makes adequate provision for the off-street parking and manoeuvring of vehicles likely to be associated with the approved use.

67. Use of Parking Spaces

The car parking hereby approved shall be used by the staff and visitors associated with the Airport and for no other users.

Reason: In order to provide a satisfactory level of on-site parking.

68. Cycle Parking

The secure and covered cycle parking facilities shall be provided in accordance with the 'Condition 75: Cycle Parking Version 2' document dated November 2019 approved under reference 19/02620/AOD (dated 4 December 2019) unless alternative or amended facilities are agreed in writing with the local planning authority. Such cycle parking facilities shall be retained thereafter.

Reason: To ensure the provision of adequate cycle facilities.

69. Delivery and Service Plan

The approved development shall be carried out in accordance with the 'Condition 76: Delivery and Servicing Plan' dated September 2019 approved under reference 19/02620/AOD (dated 18 4 December 2019) unless an alternative or amended Delivery and Servicing Plan is agreed in writing with the local planning authority.

The development shall only be operated in accordance with the approved Delivery and Servicing Plan, which shall be retained thereafter.

Reason: To ensure that vehicle movements associated with the use hereby permitted remain consistent and that the use does not represent any unacceptable level of vehicle movements such that the safety of pedestrians and cyclists shall be unduly prejudiced.

70. Traffic Management Plan

The approved development shall be carried out and operated in accordance with the 'Condition 77 - Traffic Management Plan, Version 3' document dated March 2018 approved under reference 18/00741/AOD (dated 13 July 2018) and the updates within Appendix 2 of the covering letter dated 17 September 2019 approved under reference 19/02559/AOD (dated 20 December 2019) unless an alternative or amended Traffic Management Plan is agreed in writing with the local planning authority.

Reason: To prevent obstruction of the public highway surrounding the site and internal roads used by buses, taxis, delivery vehicles, cyclists and pedestrians and avoid accidents.

71. Taxi Management Plan

The approved development shall be carried out and operated in accordance with the 'Condition 78 - Taxi Management Plan, Version 3' dated March 2018 approved under reference 18/00741/AOD (dated 13 July 2018) and the updates within Appendix 2 of the covering letter dated 17 September 2019 approved under reference 19/02559/AOD (dated 20 December 2019) unless an alternative or amended Taxi Management Plan is agreed in writing by the local planning authority.

Reason: To ensure that taxi facilities are operated safely and efficiently.

72. Transport Management Strategy

The Airport shall only be operated in accordance with the 'Condition 79 Transport Management Strategy' document dated September 2019 approved under reference 19/02620/AOD (dated 04 December 2019) or any replacement strategy approved thereafter.

Reason: In the interest of residential amenity, parking congestion and highway, pedestrian and visitor safety.

73. Bus Facilities

The approved Bus Facilities Plan shall be implemented in accordance with the 'Condition 80: Bus Facilities Plan Version 4' dated June 2018 approved under 18/00741/AOD (dated 13 July 2018) or any subsequent arrangements approved by the local planning authority.

Reason: To ensure that bus services can safely serve the site as if they were on the public highway including regular maintenance and appropriate management, as the forecourt design includes changes to bus facilities that are not part of the public highway and need to be accessed via private land.

74. Unexploded Ordnance

The development shall only be carried out in accordance with the site safety and emergency procedures in the 'Condition 81: Unexploded Ordnance' document dated January 2017 approved under reference 17/00245/AOD (dated 24 March 2017) unless an alternative or amended plan is agreed in writing with the local planning authority.

Reason: To reduce risk from Unexploded Ordnance to an acceptable level, as the site lies within an area of the London Borough of Newham that has been identified as being at potential risk from buried explosive ordnance due to wartime bombing.

75. Piling

No impact piling shall take place until there has been submitted to and approved in writing by the local planning authority a piling method statement, detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and/or minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works. Any piling shall be undertaken in accordance with the terms of the approved piling method statement.

Reason: To ensure that the piling will not impact on local underground sewerage utility infrastructure, as it will be close to underground sewerage utility infrastructure.

76. Construction Working Hours

No construction works shall take place between 2000 hours on Sundays to 0700 hours on Mondays; and no construction works shall be carried out on Bank and Public Holidays.

Reason: To ensure respite for nearby Sensitive Receptors and ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area.

77. Construction Design and Method Strategy

The approved development shall be carried out in accordance with the 'Condition 87: Construction Design and Method Strategy' document dated February 2018 approved under reference 18/00578/AOD (dated 13 July 2018) and the updates within Appendix 2 of the covering letter dated 17 September 2019 approved under reference 19/02559/AOD (dated 20 December 2019) unless an alternative or amended Strategy is agreed in writing with the local planning authority.

Reason: To ensure a satisfactory standard of development and to safeguard amenities of the surrounding area.

78. Construction Environmental Management Plan (CEMP)

The approved development shall be carried out in accordance with the 'Condition 88: Construction Environment Management Plan Version 2' dated December 2019 approved under reference 19/02619/AOD (dated 20 December 2019) unless an alternative or amended CEMP is agreed in writing by the local planning authority.

Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area.

79. Construction Sound Insulation for Sensitive Receptors

The approved development shall be carried out in accordance with the 'Condition 89: Construction Sound Insulation Scheme' document dated January 2017 approved under reference 17/00228/AOD (dated 24 March 2017) unless an alternative or amended Construction Sound Insulation Scheme is agreed in writing by the local planning authority.

Reason: To ensure that affected Sensitive Receptors are suitably mitigated against intrusive construction noise impacts.

80. Night-time Construction Sound Insulation

Prior to the Commencement of Development of the relevant Phase approved under Condition 3, any works required in accordance with the Construction Sound Insulation Scheme approved under Condition 79 shall be offered to Sensitive Receptors in accordance with that Scheme unless alternative or amended provisions are agreed in writing by the local planning authority.

Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area.

81. Day time Construction Noise Mitigation

Prior to the Commencement of Development of the relevant Phase approved under Condition 3, any works required in accordance with the Construction Sound Insulation Scheme approved under Condition 79 shall be offered to Sensitive Receptors in accordance with that Scheme unless alternative or amended provisions are agreed in writing by the local planning authority.

Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area.

82. Construction Lighting

The approved development shall be carried out in accordance with the 'Construction Lighting, Version 2' document dated March 2018 as approved under reference 18/00761/AOD (dated 13 July 2018) and the updates within Appendix 2 of the covering letter dated 17 September 2019 approved under reference 19/02559/AOD dated 20 December 2019 unless alternative or amended details are agreed in writing by the local planning authority.

Reason: To ensure that construction and community safety is not compromised.

83. Monitoring and Reporting (Construction)

- 1) Noise and vibration monitoring shall be undertaken by LCY continuously throughout the construction of the development at no fewer than 2 locations to ensure that demolition and construction works and associated activities are being undertaken in a manner that ensures compliance with the specified noise level limits and triggers.
- 2) Manual short-term noise measurements shall be undertaken as regularly as necessary to verify that the continuous noise monitoring is adequately reflecting the impact of noise on the surrounding buildings.
- 3) Noise monitoring shall be undertaken at one or more locations continuously around the site throughout the duration of the works by LCY to verify that the continuous noise monitoring is adequately reflecting the impact of noise on the surrounding buildings and that the construction noise levels are in compliance with planning or other legal requirements.
- 4) Suitable vibration monitoring equipment shall be made available on site to demonstrate compliance with the specified vibration level limits. The equipment shall be capable of monitoring peak particle velocity in three mutually perpendicular axes and shall be capable of measuring down to 0.1 mm/s.
- 5) An alert or traffic light type system shall be operated to warn operatives and the construction manager when the site boundary noise limit is being approached and when it is being exceeded. This will provide the facility to monitor whether limits are being approached.
- 6) The noise data from the continuous noise monitoring system shall be made accessible in real time (as far as practically possible) via a web-based system that is available to all relevant parties for viewing.

Reason: To ensure a satisfactory standard of development and to safeguard amenities of the surrounding area.

84. Temporary Construction Noise Barrier

The temporary construction noise barrier shall be erected and retained in accordance the 'Condition 94: Temporary Construction Noise Barrier' document dated October 2017 approved under reference 17/03556/AOD (dated 22 November 2017) unless alternative or amended details are approved in writing with the local planning authority.

The temporary construction noise barrier shall be retained for the duration of the construction works.

Upon completion of the development the temporary noise barrier shall be dismantled and removed from the Airport in its entirety.

Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area.

85. Construction Complaints Handling

A person shall be made responsible for liaison with the local community in order to keep them informed of progress and for providing a means of treating complaints fairly and expeditiously. The details of their role and responsibilities are specified in the Construction Design and Method Strategy approved under Condition 77. A comprehensive complaints management scheme, by which complaints are received, recorded, monitored, actioned and reported, shall be put in place and implemented in accordance with the approved specification in the Construction Design and Method Strategy. During construction works, a dedicated channel (telephone line) shall be provided to facilitate and receive complaints, staffed for 24 hours a day.

Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area.

86. Construction Compound Operations and Hoarding

Development shall be carried out in accordance with the 'Condition 96: Construction Compound' document dated March 2018 approved under reference 18/00761/AOD (dated 13 July 2018).

Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area.

87. Vibration Limits

Vibration from construction shall not exceed a Peak Particle Velocity of 1mm/s in any axis, measured adjacent to the foundations of any Sensitive Receptor and 3mm/s at commercial receptors. Where vibration levels exceed the above limits, steps shall be taken to reduce levels to within the above limits in accordance with details to be submitted to and approved in writing by the local planning authority. Where vibration levels exceed 3mm/s works shall cease and measures shall be taken to reduce vibration levels to below 1mm/s.

Reason: To ensure a satisfactory standard of development and to safeguard the amenities of the surrounding area.

88. Additional flight slots limited to newer generation aircraft

Any Aircraft Movements in excess of 6 and up to 9 movements between 0630 hours and 0659 hours on Mondays to Saturdays shall be restricted to the new generation aircraft identified in Table 8-7 of the December 2022 Environment Statement (namely the Airbus A220-100; Airbus A220-300; Embraer E190-E2; Embraer E195-E2) and any other aircraft that meets each of the new generation aircraft noise standards set out in paragraph 8.5.36 of the December 2022 ES.

For the avoidance of doubt these limits are:

- Have a flyover level not exceeding 85.0 EPNdB,
- Have a sideline level not exceeding 89.0 EPNdB, • Have an approach level not exceeding 93.0 EPNdB, and
- Have a sum of its three certificated noise levels not exceeding 263.0 EPNdB.

Reason: To ensure that the scheduled aircraft movements in the extended operating periods are on new generation aircraft only.

ANNEX F –RECOMMENDED CONDITIONS SHOULD THE SOS WISH TO ALLOW THE APPEAL INCLUDING THE REVISED OPERATING HOURS

The below conditions should be substituted in the list in Annex E, above.

7. Aircraft Maintenance and Repair

Except in exceptional circumstances, no maintenance or repair work of aircraft and/or aircraft related machinery which causes noise that is audible at the Airport Boundary and/or at any Sensitive Receptor shall take place at the Airport other than between the hours of:

- 0630 and 2200 Monday to Friday inclusive;
- 0630 and 1830 on Saturday;
- 1230 and 2200 on Sunday; and
- 0900 and 2200 on Bank Holidays and Public Holidays.

All such activity outside the specified hours set out above causing noise that is audible at the Airport Boundary shall be reported to the local planning authority within 24 hours of occurrence.

Reason: To safeguard residential amenity from non-essential maintenance works and use of the Airport and to ensure that the Airport does not cause unacceptable harm to the amenity of surrounding land and buildings, particularly given the Airport's proximity to Sensitive Receptor.

16. Aircraft Take-Off and Land Times

Except in cases of immediate emergency to an aircraft and/or the persons on board, the Airport shall not be used for the taking off or landing of aircraft at any time other than between the hours of:

- 0630 and 2200 on Monday to Friday inclusive;
- 0900 and 2200 on Bank Holidays and Public Holidays (with the exception of Christmas Day in condition 24);
- 0630 and 1830 on Saturdays (subject to a maximum of 12 additional arriving aircraft which shall be permitted to land between 1830 and 1930 only during British Summer Time); and
- 1230 and 2200 on Sundays;

provided that these restrictions shall not prevent an aircraft which was scheduled to take-off from or land at the Airport but which has suffered unavoidable operational delays from taking off or landing at the Airport between 2200 hours and 2230 hours Sunday to Friday and 1830 hours to 1900 hours on Saturday (and in the case of aircraft landing during the British Summer Time, between 19.30 and 20.00) and where that taking off or landing would not result in there being more than 400 Aircraft Movements at the Airport per calendar year outside the above permitted hours of operation or more than 150 such movements in any consecutive three months.

Reason: In the interests of limiting the number of aircraft movements in order to protect the amenity of current and future occupants and neighbours.

21. Maximum Permitted Actual Aircraft Movements (day/year)

The number of Actual Aircraft Movements at the Airport shall not exceed:

- l) 230 per day on Saturdays, of which, no more than 130 shall be before 1230 hours, and no more than 130 shall be after 1230 hours
- m) 200 per day on Sundays but not exceeding 400 on any consecutive Saturday and Sunday;
- n) subject to (d) to (j) below 592 per day on weekdays; and
- o) 132 on 1 January;
- p) 164 on Good Friday;
- q) 198 on Easter Monday;
- r) 248 on the May Day Holiday;
- s) 230 on the late May Bank Holiday;
- t) 230 on the late August Bank Holiday;
- u) 100 on 26 December; and
- v) 111,000 per calendar year.

Reason: In the interests of limiting the number of aircraft movements in order to protect the amenity of current and future occupants and neighbours.

36.Passenger Terminal Opening Times

No Passenger Terminal Buildings within the Airport shall be open for use operation or trading except between the hours of:

- 0430 and 2230 Monday to Friday;
- 0430 and 2000 on Saturdays;
- 1030 and 2230 on Sundays;
- 0700 and 2230 hours on Public and Bank Holidays; and
- not at all on Christmas Day

In the event that an unavoidable operational delay occurs to an inbound or an outbound aircraft, no Passenger Terminal Building shall be open for use, operation or trading more than 30 minutes after such aircraft has landed or departed from the Airport.

Reason: To safeguard local residential amenity.

43.Ground Running, Testing and Maintenance

Unless in exceptional circumstances, the Ground Running of airplane engines for testing or maintenance purposes shall only take place between the following hours:

- i. 0630 and 2200 Monday to Friday;
- ii. 0630 and 1830 on Saturdays;
- iii. 1230 and 2200 on Sundays;
- iv. 0900 and 2200 on Bank Holidays and Public Holidays (but not at all on Christmas Day); and
- v. in such locations and with such orientation of the aircraft as set out in the approved GRTMS and employing such noise protection measures as set out in the approved GRTMS;

provided that the restrictions above shall not prevent aircraft maintenance work taking place outside of these hours where that work will not be audible at the Airport Boundary or at any Sensitive Receptor and provided this restriction shall not prevent Auxiliary Power Unit usage for essential conditioning of aircraft cabins and equipment prior to departure limited to a maximum of 10 minutes before an aircraft's departure from the stand or 10 minutes after arrival on the stand.

Reason: In the interests of protecting environmental amenity from noise impacts at sensitive parts of the day.

88.Additional flight slots limited to newer generation aircraft

Aircraft Movements taking place between 1230 hours and 1830 hours (or between 1230 and 1930 during British Summer Time) on Saturdays, and any Aircraft Movements in excess of 6 and up to 9 movements between 0630 hours and 0659 hours on Mondays to Saturdays shall be restricted to the new generation aircraft identified in Table 8-7 of the December 2022 Environment Statement (namely the Airbus A220-100; Airbus A220-300; Embraer E190-E2; Embraer E195-E2) and any other aircraft that meets each of the new generation aircraft noise standards set out in paragraph 8.5.36 of the December 2022 ES.

For the avoidance of doubt these limits are:

- Have a flyover level not exceeding 85.0 EPNdB,
- Have a sideline level not exceeding 89.0 EPNdB, • Have an approach level not exceeding 93.0 EPNdB, and
- Have a sum of its three certificated noise levels not exceeding 263.0 EPNdB.

This restriction shall not apply to any aircraft which is scheduled to take off from or land at the Airport before 1230 hours on a Saturday but which takes off or lands at the Airport after 1230 on a Saturday due to unavoidable operational delays where that take-off or landing would not result in there being more than 130 Aircraft Movements at the Airport per calendar year after 1230 on Saturdays by aircraft which do not meet the new generation aircraft noise standards.

Unless otherwise agreed with the local planning authority, no Air Taxi Movements, Business Aviation Movements or Private Movements associated with the Private Jet Centre shall take place between 1300 on Saturday and 1230 on Sunday.

Reason: To ensure that the scheduled aircraft movements in the extended operating periods are on new generation aircraft only.



Ministry of Housing, Communities & Local Government

www.gov.uk/mhclg

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, King's Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.