

OPENING STATEMENT ON BEHALF OF THE LONDON BOROUGH OF NEWHAM (LBN)

1. Convention demands that Opening Statements at the commencement of public inquiries are succinct, directed at the case to be presented and identify issues as appropriate. This short opening on behalf of LBN will follow that convention and will be developed in detail as part of the closing statement following the consideration of evidence.
2. The application has been identified as part of the Inspectors opening remarks and accordingly, I do not need to spend time in setting that out again in detail. All that is necessary is to identify the fact that the application before this appeal arises from an original planning permission and the target of the application is aimed at changing some of the planning conditions imposed on that original permission, along with necessary changes to the planning obligation which accompanied it.
3. Having stated that three matters arise. First that the Council's case will be directed at the application made arising from the original permission which takes as its starting point the fact that the airport is present, is operating and will continue to do so. Second, that the changes arising from the application relate to a number of conditions imposed on the original permission as being necessary for the proper and acceptable operation of the airport. Thirdly, that the case being presented by the Council will be targeted at what it sees is unacceptable and provides a sound basis for refusing the application as made.
4. That third point arises directly from the fact that the application as made relates to a number of factors and whilst the Council would have no objection to certain elements of the application as made, given appropriate and necessary safeguards the application is combined to include a number of matters which are not acceptable. One such matter to which the Council would not have objection that is included being the growth from the current 6.5 to 9 mppa, subject of course to adequate protections being in place.

5. The airport, as the evidence will describe, is unique in a number of important respects which have a direct bearing on the judgment to be made as to whether the application is acceptable. The planning history of a site, and also the area in which it sits is a material and I would say important consideration in considering subsequent planning applications that are made. I am sure that would be accepted by all parties but if not, I will ensure the matter is covered in detail in closing. The way the airport was developed and originally permitted and the way that it has grown since with the service that it offers is an important material consideration in this case.
6. It started life, following a grant of planning permission by the London Docklands Development Corporation, in 1985. The limitations which arose from the imposition of a new airport in a location such as Newham were recognised and fully taken into account in allowing the airport along with the specific limitations that were imposed on it at the time. The location of the airport in such proximity to the centre of a major city where large numbers of people lived, worked, and undertook relaxation were all factors that had to be recognised and given full weight in deciding that the airport in such a location could be made to be acceptable. That was, no doubt a difficult task to achieve and we are fortunate that we have present at this inquiry a witness in Mr Thornely-Taylor, who was part of that process.
7. In essence various factors arose which when given the appropriate weight in the assessment led to a decision that an airport could be accommodated provided suitable measures were taken. Those measures included the use of the “quieter”, albeit not quiet, aircraft of limited numbers of movements. The vicinity of the airport at the time was more commercial, being former dockland, with fewer residential and other properties. It was an area in need of development, which reflected the creation of the LDDC to seek to bring it about. The creation of the airport was seen as a vital step in that regard with the intention that it be promoted as a business focussed airport to support other commercial activities, such as the creation of Canary Wharf nearby. As such it was to be a focus which would provide enhancement and advantages to the area and to London more widely. The assessment of it at that time was detailed and thorough to ensure a proper balance was reached.

8. The origins of the airport are therefore clear to see, they related to the desire to bring change and development to an area which was seen as being in need of significant change and improvement. That change was to be achieved but within a framework whereby the essential protection required to those living, visiting, and working in the area, whether judged against what existed at the time or against that which reflected the LDDC's ambitions for change and improvement, would be balanced against the impacts arising from the airport.
9. Over the years since that time many changes have been brought forward, which are identified within the evidence, to arrive at the position that we find ourselves today. Although Air Transport Movements have altered, with an inevitable increase in numbers being provided, the balancing protection has also changed, developed, and improved to match it. As such the essential balance has been retained. That is important as the application before the Inquiry does not seek to change certain essential aspects of the airports operation. The annual ATMs is to remain at 111,000 as permitted following the 2016 decision, which reduced it from 120,000. As such it must be the case that the other changes envisaged, including the growth from 6.5 mppa to 9 mppa can be achieved with those limitations in place.
10. Balancing those changes over the years have been alterations to seek to ensure that the experience of those living and working in the area remains the best it could possibly be. In short, the operation of the airport and the protection to be given by its operation, in particular restrictions that were in place, ran hand in hand to seek to achieve the advantages offered weighed against the protection needed.
11. Part of that included the imposition, which if I read the evidence correctly, was said to be a suggestion from the airport operators themselves, was the restriction to operating hours imposed on the planning permission in 1998. The imposition of such restrictions would only have been possible if they met the applicable planning tests and if they did arise as a suggestion from the airport then it would indicate the airport accepted the need for them. Those restrictions imposed the limited early morning flight numbers as well as the curfew or respite period between 12.30 Saturday to 12.30 Sundays. I should just add that whether it is called a curfew or a respite period the essential advantage offered by it is certain.

12. In the early morning flight numbers were limited which was a known fact of the operation of the airport. For a 24-hour period covering lunchtime Saturday to lunchtime Sunday the airport did not operate in terms of aircraft movements. That was a certain period where the local population knew what the situation would be and could make whatever plans they chose to do. As the area has been developed, with far more residential properties nearby and more planned, that certainty has been present. Anyone buying or moving into a property in this vicinity since 1999 has been aware of that situation and could make decisions accordingly. The consequence of this application needs to be seen in that context.
13. Over the years since the original planning permission for the airport was granted the LBN has sought to follow a consistent approach. The advantages offered by the airport operation have been acknowledged and taken into account within the context where the potential adverse impacts are balanced against it. Noise considerations have always been a key consideration and have always been weighed against the benefits of any proposal to change the operation of the airport. Since 1999 that has included recognition of the limitations on the operation in the early morning, at weekends and the certainty of closure for that 24-hour period.
14. Those limitations, including the 24-hour weekend closure, did not prevent the airport growing. Up until the time that the covid pandemic hit growth continued with those limitations, intended to balance the effects of the airport with the impact on the area, fully in place. The airport therefore continued to be successful, to serve what appears to have been its original market in providing a link for business users in close proximity to where those business users were, and to operate successfully. All the advantages to the area, the city in terms of its enhancement of its reputation as set out in the application documents were therefore met. That element, if the airport continued to operate in the same fashion would continue to achieve that aim, would still provide those benefits, and would ensure the same reputational advantage offered by it.
15. The problem appears, not to be linked to that but rather to other factors. We will, no doubt need to explore the way the airport is currently operating and what steps are

suggested to create the need for these essential protections to be removed. We will be assisted in parts of that by Dr Smith. It would appear a desire to ensure that other markets can be met which the current operation prevents or limits. They appear to be essentially leisure markets with longer distance, 4-to-4.5-hour flights being incapable of flying out from LCY and returning the same day at weekends, although such flights could be accommodated within operational hours during the week. Various factors arise from that which will need to be looked at following the presentation of the evidence.

16. All that needs to be identified in opening is that the need, as expressed appears to relate to the desire to move away from its original business traffic model and more towards serving new and additional markets which it does not currently provide a full service for.
17. Weighed against that is the consequence of the changes being permitted.
18. In the Council's view, which cannot be disguised by the fact that the application appears to be limited to a simple change to planning conditions, is to give rise to one of, if not the major change to the airports operation since its original creation.
19. The airport was created and has grown to accommodate more flights. That growth has at all times been balanced against impacts. Those impacts, at least in terms of noise, have altered and improvements have been made. That, no doubt explains why the Council has looked at the changes and made decisions based on the information available. The Councils support for CADP1, in the face of opposition from the Mayor of London, is a sound indication of the approach taken. The loss of the curfew/respite period and the additional morning flights is where that has to change. Those alterations will seek to change the situation to such a fundamental degree that they must be resisted with the refusal of the application being the only course.
20. Now, and for some of us who enjoy delving deeply into the technicalities of noise assessments, predicative effects and the judgements that follow, this case is not of that sort of nature. There is no supported technical approach that can be identified, applied and with the results simply indicating the decision to be made. Technical witness used

to precisely that may feel a little lost on this occasion. Technical assessments have been made and have been relied upon. The full nature and effect of them will be addressed in closing.

21. For now, all that the Council says, based on the information and clear guidance provided by Mr Thornely-Taylor is that the technical assessment is not of any great use in the current circumstances. That assessment based as it is on the LAeq 16h indicates, taking into account the beneficial effects of refueling (which is something else we will need to consider) the effect of the removal of the curfew/respice will be negligible.
22. Unfortunately, that conclusion regarding negligibility is based on the application of a weekend noise index that has no technical support and cannot be used to measure community response to the removal of the Saturday afternoon curfew. In addition, it is at odds with the views of surrounding residents as indicated through the response to the application. It does raise a question, which I note at this stage given the apparent rejection of it by the Appellants, of the appropriateness of taking into account the number and strength of consultation response. Taking that into account is clearly correct and may actually be a better indicator of the true effect of the changes brought about by the application than the use of an unvalidated and novel new noise index.
23. There is no validated technical test for assessing the changes which will occur with the application. Those changes will be obvious and will undoubtedly be experienced by those living, visiting, and working within the local area. It is therefore necessary to make the best judgment possible in the circumstances of the current case. Put at its most simple, the current case with limited numbers of flights in the morning to be increased and no flights from the LCY to be replaced by an increasing number of flights within a six-hour period during Saturday afternoons. Saturday afternoons when the local residents might reasonably be outside looking for some recreational activity.
24. That is the essence of the application and the essential problem that it gives rise to.

Simon Randle on behalf of LBN. December 5th 2023.