

TOWN AND COUNTRY PLANNING ACT 1990

LONDON CITY AIRPORT

AMENDMENT OF CONDITIONS AT LONDON CITY AIRPORT TO ACCOMMODATE 9 MILLION PASSENGERS PER ANNUM

OPENING SUBMISSIONS

ON BEHALF OF

LONDON CITY AIRPORT LIMITED

Introduction

1. London City Airport sits in the heart of the Royal Docks and Beckton Riverside Opportunity Area. It is recognised as an “*anchor*” economic asset of regional and international importance.¹ The Airport is recognised by both the Greater London Authority and the London Borough of Newham (‘LBN’) as a “*key local employer*”² and a “*catalyst for investment within the area*”, playing an important role in supporting London’s international connectivity.³ In 2019, the Airport employed 2,310 on site⁴ and generated a further 850 jobs within the local area or 1,370 across London, through its supply chain and induced effects.⁵
2. This role is particularly important in the context of East London where the Airport sits, parts of which are recognised as some of the most deprived in the UK.⁶ The identification of East London as a priority area for levelling up is largely driven by unemployment and a lack of jobs.⁷ Local Plan

¹ Royal Docks and Beckton Riverside Opportunity Area Framework (‘OAPF’), page 113 (CD3.10.1).

² OAPF, section 1.1 (CD3.10.1).

³ Newham Local Plan, para 1.23 (CD3.4.1).

⁴ 2,060 FTE. Sean Bashforth, Proof, para 5.13.

⁵ Louise Congdon, Proof, Table 6.2, page 51.

⁶ Environmental Statement, Socio-economics, para 7.5.35 (CD1.14). 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.

⁷ Louise Congdon, Proof, para 6.2.4.

policy supports the optimisation of existing capacity at the Airport, alongside further mitigation of its environmental impacts including improvements to public transport.⁸

3. The local area is also one of rapid growth. It is one of the largest Opportunity Areas in London, identified to provide some 30,000 new homes and 41,500 new jobs.⁹ National policy recognises the key role that airports can play in delivering levelling up and local benefits, including through trade, air freight, aerospace, investment and tourism, as well as allowing people to benefit from improved connections across the union and regions.¹⁰
4. The recognition of the local and regional importance of the Airport reflects the Government's view of airports as strategically and nationally important assets, enhancing the UK's global connectivity and acting as catalysts for economic growth.¹¹ National aviation policy is clear; the Government remains supportive of all airports making best use of their existing runways.¹² This requires striking a balance for airports to grow sustainability, whilst addressing their environmental impacts.¹³ This policy position should be given significant weight, having been restated by the Government as recently as May 2022.¹⁴
5. London City Airport, like all airports, suffered a significant downturn as a result of the pandemic.¹⁵ The proposed amendments to the conditions that currently govern operations at London City Airport will allow the Airport to meet the needs of local passengers whilst creating the operational flexibility that will accelerate the modernisation of its airline fleet mix.¹⁶ This will support the Airport's recovery, whilst bringing significant economic, consumer and other benefits.

Context and nature of the application

6. The Airport was originally granted planning permission in May 1985.¹⁷ 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.¹⁸ Since then, a number of planning permissions and variations have been granted. A weekend curfew was introduced in 1998,

⁸ Newham Local Plan, policy S3(xviii) (**CD3.4.1**).

⁹ OAPF, page 11 (**CD3.10.1**).

¹⁰ Flightpath to the Future ('Fttf'), page 10 (**CD3.5.06**).

¹¹ Fttf, pages 10 -11 (**CD3.5.06**).

¹² 'Beyond the Horizon The Future of UK Aviation: Making Best Use of Existing Runways' ('MBU') (**CD3.5.03**). This is reiterated in Fttf, page 9 (**CD3.5.06**).

¹³ As recognised in MBU (**CD3.5.03**).

¹⁴ Fttf, page 4 (**CD3.5.06**).

¹⁵ As recognised in Fttf, page 44 (**CD3.5.06**).

¹⁶ Louise Congdon, Proof, para 5.1.6.

¹⁷ Sean Bashforth, Proof, para 2.3.

¹⁸ Sean Bashforth, Proof, para 2.4.

alongside a doubling of permitted annual air traffic movements ('ATMs'), including changes to ATMs at weekends.¹⁹ At that time, the throughput of the Airport was forecast to reach 3 million passengers per annum ('mppa').²⁰

7. It is significant that Government policy imposes no general requirement for, or expectation of, curfews at UK airports, due to the socio-economic impact of such restrictions.²¹
8. The London City Airport Development Programme ('CADP1') planning permission was granted in July 2016 by the Secretaries of State for Transport and Communities and Local Government. 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.²² Of particular relevance to the current appeal, the CADP1 planning permission was granted subject to the following conditions:²³
 - 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;²⁴ 0630 and 12.30 on Saturdays; and 1230 and 2200 on Sundays.²⁵
 - b. 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.
 - c. Condition 25 permits a maximum of six Actual Aircraft Movements between 0630 and 0659 hours on Mondays to Saturdays (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.

¹⁹ Sean Bashforth, Proof, para 2.5.

²⁰ Sean Bashforth, Proof, para 2.5.

²¹ Richard Greer, Proof, para 11.3.3. Although it is acknowledged that Heathrow does have a voluntary night flights curfew and such a curfew at Heathrow is also reflected in the Airports National Policy Statement (CD3.5.2).

²² Sean Bashforth, Proof, para 2.11.

²³ **CD7.8.**

²⁴ With the exception of Christmas Day, which is addressed in condition 27.

²⁵ Similar restrictions apply for aircraft maintenance and repair (condition 8) and ground running, testing and maintenance (condition 50).

- d. Condition 43 requires that the passenger throughput of the Airport shall not exceed 6.5 mppa.
9. In addition, a series of other conditions impose environmental controls and restrictions on the Airport, including the Noise Management and Mitigation Strategy ('NOMMS') (condition 31); as well as conditions relating to sustainability, biodiversity, air quality, lighting and surface access, amongst others.²⁶
10. Due to the pause in the CADP1 construction programme in 2020 during the pandemic, it is now anticipated that the remaining CADP1 works (including the new terminal buildings) will be built out over a more prolonged period. The proposed amendments, would enable the CADP1 construction works to be completed earlier than they would otherwise be delivered.²⁷

The Proposed Amendments

11. The proposals that are the subject of this appeal seek to amend a number of conditions that were imposed on the CADP1 permission. The application was made under section 73 of the Town and Country Planning Act 1990. In summary, the amendments would facilitate the following (together, 'the Proposed Amendments'):²⁸
- a. An increase in the annual passenger cap to allow the Airport to handle up to 9 mppa;
 - 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 season²⁹); 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).
12. The Proposed Amendments also include associated changes to aircraft maintenance and terminal opening hours to align with later opening on Saturday afternoons,³⁰ and minor design changes to

²⁶ **CD7.8.**

²⁷ ES, Chapter 3, para 3.4.13 (**CD1.10**). As explained further below, the ES assessed the core development case, as well as faster and slower growth scenarios as sensitivities.

²⁸ Sean Bashforth, Proof, para 5.1.

²⁹ 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.

³⁰ Sean Bashforth, Proof, para 4.4. Full details of the Proposed Amendments are set out in Appendix 2 to the Planning Statement (**CD1.5**).

the CADP1 permission. There are no proposed changes to the permitted number of aircraft movements a year,³¹ the permitted maximum runway movements per hour, the number of aircraft stands or any other physical changes to airfield infrastructure.

13. The additional flights that would be permitted by the Proposed Amendments (both in the mornings and on Saturday afternoons) are accompanied by a commitment to allow only quieter 'new generation' aircraft to use those slots.³² As explained further below, this commitment not only limits noise levels within the extended opening hours, but will accelerate the transition to 'new generation' aircraft by creating a powerful economic incentive for airlines to re-fleet to take advantage of the additional slots.³³ As such, the benefits of newer aircraft will be experienced throughout the week, thereby reducing the overall noise effects from Airport operations, alongside enhancements to the Airport's Sound Insulation Scheme.
14. The Proposed Amendments will allow the Airport to meet expected future levels of demand within the Airport's catchment area.³⁴ The extended operating hours will allow the airlines to grow their route network, increasing frequencies of service to existing destinations and services to new destinations, including better timed connections to hubs that provide onward connections to global points.³⁵
15. Longer operating hours on Saturday afternoons are particularly important for leisure travel. The current Saturday opening hours limit the ability of airlines to make outbound and return flights at weekends, particularly to/from more distant popular leisure destinations in Europe. The extended operating hours on a Saturday will allow a wider range of leisure destinations to be served while also helping to reduce the current inefficiency in terms of aircraft utilisation.³⁶ This in turn provides a strong incentive for airlines to re-fleet to new generation aircraft earlier than would be viable with the current restricted hours.
16. With regards to the increased number of early morning flights, as explained by Louise Congdon, current restrictions mean that aircraft based at the Airport have to delay their first departure thereby wasting valuable flying time and aircraft utilisation.³⁷ Current restrictions therefore act

³¹ Condition 23 of the CADP1 permission limits the annual aircraft movements to 111,000 (**CD7.8**).

³² 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.

³³ Louise Congdon, Proof, para 5.1.3.

³⁴ Sean Bashforth, Proof, para 5.2.

³⁵ Louise Congdon, Proof, para 5.4.3.

³⁶ Louise Congdon, Proof, para 5.4.3.

³⁷ Louise Congdon, Proof, para 5.2.8.

as a disincentive to base more aircraft at the Airport and also preclude additional inbound flights from being scheduled in the early morning period.³⁸

17. Importantly, the Proposed Amendments retain an 18/17-hour closure from 1830/1930 on Saturdays until 1230 on Sundays.³⁹ The number and duration of flights on Saturdays will continue to be significantly less than the permitted flights on weekdays.⁴⁰
18. The Proposed Amendments reflect the Airport's desire to listen to those who would be affected by the changes. The Airport undertook public consultation between July and September 2022 in respect of the Proposed Amendments.⁴¹ Despite support for the proposals from airlines, passenger and businesses, concerns were expressed by residents about the impact of increased operating hours. As a result, the Airport reduced the proposed additional Saturday opening times from 2200 to 1830.⁴² 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 will be unlocked by the increased flexibility.

Scope of the dispute

19. The scope of the dispute with LBN is strikingly narrow. The Airport and LBN have entered into a Statement of Common Ground to record the extent of agreement between the parties.⁴³
20. The refusal of the application by LBN was on two grounds only.⁴⁴ The second of these, which related to the lack of an updated section 106 agreement, has now been resolved and a deed of variation to the CADP1 section 106 agreement has been agreed between the Airport, LBN and Transport for London.⁴⁵ Only one reason for refusal therefore remains outstanding.
21. Reason for refusal 1 is as follows:⁴⁶

"The proposal, by reason of the additional morning and Saturday flights, and reduction of the existing Saturday curfew would result in a new material noise impact which would result in

³⁸ Louise Congdon, Proof, para 5.2.8.

³⁹ 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. Sean Bashforth, Proof, para 4.2.

⁴⁰ Sean Bashforth, Proof, para 5.6. 230 compared with 592 for a weekday.

⁴¹ Sean Bashforth, proof, para 2.18.

⁴² Sean Bashforth, Proof, para 4.9.

⁴³ **CD11.2.**

⁴⁴ **CD4.4.**

⁴⁵ **CD12.6.**

⁴⁶ **CD4.4.**

significant harm to the residential amenity of nearby residential properties. This would be contrary to policies D13 and T8 of The London Plan (2021) and policies SP2 and SP8 of the Newham Local Plan (2018)."

22. Before considering further the nature and scope of this reason for refusal, it is worth reflecting on the wide range of matters that are not in issue between the Airport and LBN. In particular:

- a. There is no objection to the proposal to increase the Airport's annual passenger cap to 9 mppa;⁴⁷
- b. There is no dispute that the surface transport effects of the Proposed Amendments are acceptable. Indeed, the sustainable transport mode shift stimulated by the Proposed Amendments represents a benefit in terms of policy compliance over the CADP1 permission;⁴⁸
- 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;⁴⁹
- d. There is no dispute that carbon emissions⁵⁰ from non-aviation sources are not significant in the context of the CADP1 permission. Furthermore, the carbon reductions set out in the Airport's revised Energy Strategy represent a benefit over the CADP1 permission, which weighs positively in favour of the Proposed Amendments;⁵¹
- e. It is also agreed 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.⁵²
- f. It is agreed that the health effects of the Proposed Amendments do not give rise to a reason for refusal.⁵³ There is also general agreement with the conclusions reached in the ES regarding the population health effects of the Proposed Amendments.⁵⁴

⁴⁷ LBN Statement of Case, para 3.3 (**CD10.2**). This is confirmed in Chris Smith's Rebuttal Proof, para 1.23.

⁴⁸ Officer's report, para 201 and 202 (**CD4.3.1**).

⁴⁹ Officer's report, para 129 (**CD4.3.1**).

⁵⁰ 'Carbon emissions' refers to greenhouse gas emissions as assessed in the ES, Chapter 11 (**CD1.18**).

⁵¹ Officer's report, para 231 – 233 (**CD4.3.1**).

⁵² Officer's report, para 231 – 233 (**CD4.3.1**). SOCG, Table 11.1, page 31 (**CD11.2**).

⁵³ Officer's report, para 284 (**CD4.3.1**). SOCG para 13.1 (**CD11.2**).

⁵⁴ Officer's report, para 284 (**CD4.3.1**). SOCG para 13.1 (**CD11.2**).

23. Even within the scope of the outstanding reason for refusal, which relates to the noise effects of the Proposed Amendments, there is much that is not in dispute:

- a. There is significant agreement about the methods, noise indices and modelling outputs on noise set out within the Airport's ES.⁵⁵ 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;⁵⁶ the computed noise outputs; the conclusion that the number of people exposed to significant levels of day time noise will reduce compared to the 2019 baseline, and that those levels will be in line with that predicted for the CADP1 permission;⁵⁷
- b. There is no dispute that there are no significant environment effects arising from construction noise, vibration or surface access;⁵⁸
- c. 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;⁵⁹ and
- d. As indicated above, it is agreed that the Proposed 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 Proposed Amendments give rise to unacceptable impacts on population health.⁶⁰ The reason for refusal relates solely to the impact on 'amenity'.

24. In essence, therefore, the matters in dispute between LBN and the Airport that arise from the reason for refusal relate solely to the amenity impacts arising from three additional early morning flights and the reduction in curfew on Saturday afternoons, and the policy implications of this. LBN's position is that this gives rise to a significant impact, arising from "*a new and material noise impact*",⁶¹ which is not outweighed by the benefits of the Proposed Amendments.

⁵⁵ SOCG, Table 9.1, pages 23 – 26 (CD11.2).

⁵⁶ This is subject to LBN's position that the separate assessment of weekend noise is not appropriate. SOCG, Table 9.1, page 24 (CD11.2).

⁵⁷ SOCG, Table 9.1, pages 23 – 26 (CD11.2).

⁵⁸ SOCG, Table 9.2, page 27 (CD11.2).

⁵⁹ SOCG, Table 9.2, pages 27 – 28 (CD11.2).

⁶⁰ SOCG, Table 13.1, pages 37 – 39 (CD11.2).

⁶¹ RfR1 (CD4.4).

25. With regards to issues of need and socio-economic benefits, the scope of the dispute is similarly narrow. There is no dispute that the approach adopted to air traffic forecasting and economic impact modelling is appropriate.⁶² Nor is there any dispute about the scale of economic and consumer benefits that the Proposed Amendments will deliver.⁶³
26. At the time of the determination of the application by LBN, there was also agreement as to the fact that the Airport would achieve a passenger throughput of 9 mppa, albeit that LBN considered growth would be likely to materialise in accordance with the slower growth scenario assessed in the ES.⁶⁴ Since the determination of the application in July 2023, LBN has revised its position to one where it no longer agrees that such a throughput will be achieved. Significantly, however, LBN goes no further than expressing “*some risk*” that the Airport will not achieve 9 mppa.⁶⁵ The scope of the dispute, therefore, is whether or not the downside risks identified in the evidence of Dr Smith mean that it is more likely than not that such a throughput would not be reached⁶⁶, in relation to which see later.
27. With regards to the position of HACAN East, whilst it raises matters that are not in issue between the Airport and LBN, its case remains narrow. In terms of noise, HACAN East’s case differs from LBN’s only insofar as it seeks to broaden the noise objection to include the impact on residents at a considerable distance outside the Airport’s noise contours, but overflowed by aircraft.⁶⁷ This is informed by evidence gathered from a ‘citizen science survey’.⁶⁸
28. In respect of climate change, HACAN East does not dispute the methodology used to calculate aviation emissions, nor does it dispute the outputs of those calculations. The dispute turns solely on the interpretation and application of local policy in respect of aviation emissions, both of which are planning matters.⁶⁹
29. Finally, in terms of socio-economics, the key plank of HACAN East’s case turns on the alleged failure of the Airport to monetise the environmental impacts of the Proposed Amendments.⁷⁰ This is based on the position that an assessment should have been carried out in accordance with the

⁶² SOCG, Table 8.1, page 21 (**CD11.2**).

⁶³ SOCG, Table 8.1, page 21 (**CD11.2**).

⁶⁴ Officer’s Report, para 261 (**CD4.3.1**). The forecasts were considered to be reasonable but ‘optimistic’.

⁶⁵ This is reflected in the SOCG, para 17.1(b) (**CD11.2**) and Chris Smith, Rebuttal Proof, para 1.39.

⁶⁶ This is reflected in the SOCG, para 17.1(b) (**CD11.2**).

⁶⁷ HACAN East Statement of Case, para 4.1 (**CD10.3**)

⁶⁸ See Christian Nold, Proof, section 2.

⁶⁹ Jake Farmer, Proof, para 5.10.

⁷⁰ Alex Chapman, Proof, para 2.1.

Department for Transport's Appraisal Guidance, known as 'WebTAG'.⁷¹ This argument is not novel; it has been advanced unsuccessfully at a number of other recent airport inquiries.

30. The Airport's case on these main issues is summarised in these opening submissions. This summary is not intended to address every point raised by LBN and HACAN East, which will be explored in evidence during the course of the inquiry.

Main issues

31. In light of the scope of the dispute identified above, the main issues for the inquiry are as follows:

- a. Air traffic forecasting;
- b. Socio-economics;
- c. Noise; and
- d. Planning policy and overall planning balance, including the application of climate change policies as well as those on noise.

32. The remainder of these opening submissions are broadly structured around these topics, in addition to outlining the Airport's evidence on certain other matters addressed in technical notes appended to the Proof of Evidence of Sean Bashforth.

Air Traffic Forecasting

Role of air traffic forecasting

33. The role of air traffic forecasting in the context of the appeal is to establish the demand for growth at the Airport and how the Proposed Amendments relate to the achievability of that growth. The need for growth underpins the delivery of the socio-economic benefits of the Proposed Amendments. The evidence of Louise Congdon on forecasting also demonstrates the relationship between the extended operating hours sought by the Proposed Amendments and the rate of airline re-fleetings. The outputs from the air traffic forecasting are inputs for the purposes of the assessments in the ES.

National aviation policy

⁷¹ Alex Chapman, proof, para 2.14.

34. The aviation policy context is set out in detail of the Proof of Evidence of Louise Congdon and the Need Case⁷². For the purposes of this opening, it is sufficient to note the following key themes that emerge:

- a. National aviation policy recognises the important economic role played by the aviation industry. This was recognised in the Aviation Policy Framework ('APF'), which was published in 2013⁷³ and reiterated in the Airports National Policy Statement, published in June 2018.⁷⁴ Most recently, the Government has recognised the "*huge strategic importance*" of aviation following the UK's withdrawal from the European Union, and its role in allowing tourism, business and trade to thrive, in Flightpath to the Future ('Fttf').⁷⁵ In particular, the Government has emphasised the link between improving connectivity and achieving competitive advantage for the UK in respect of leveraging trade and investment,⁷⁶ as well as recognising the role of airports locally in supporting economic activity⁷⁷ and championing the levelling up agenda.⁷⁸ Fttf also emphasises the importance of meeting the needs of consumers, allowing global connections to thrive⁷⁹. The Government continues to support making best use of existing airport runway capacity in order to achieve these aims.⁸⁰
- b. Since the publication of the APF, the concept of balancing the benefits and costs of aviation has been central to national policy.⁸¹ This was reiterated in 'Beyond the Horizon The Future of UK Aviation: Making Best Use of Existing Runways' ('MBU'), which recognised that the development of airports can have negative as well as positive local impacts.⁸² Applications for the development of airports need to demonstrate how they will mitigate against local environmental issues, taking account of relevant national policies, as well as demonstrating the economic benefits of making 'best use' and how these benefits will be shared with communities around the airport.⁸³

⁷² Section 2 (CD1.60).

⁷³ CD3.5.1.

⁷⁴ See, in particular, para 1.39 (CD3.5.2).

⁷⁵ Foreword, page 3 (CD3.5.6).

⁷⁶ Page 18 (CD3.5.6).

⁷⁷ Page 42 (CD3.5.6).

⁷⁸ Page 7 (CD3.5.6).

⁷⁹ Page 60 (CD3.5.6).

⁸⁰ MBU (CD3.5.2) and Fttf, page 7 (CD3.5.6).

⁸¹ Para 5 (CD3.5.1).

⁸² Para 1.29 (CD3.5.3).

⁸³ Para 1.22 (CD3.5.8).

- c. Insofar as it is relevant to air traffic forecasting, Government policy on climate change supports airport growth where it can be delivered within the UK's environmental obligations.⁸⁴ The Jet Zero Strategy makes clear that the Government considers that 'jet zero' can be achieved without the need to intervene directly to limit aviation growth.⁸⁵ The analysis underlying the Jet Zero Strategy indicates that it is possible for the potential carbon emissions resulting from the assumed airport expansion schemes to be accommodated within the planned trajectory of achieving net zero emissions by 2050. It is notable that the capacity assumption for London City Airport that underpins the Jet Zero modelling assumes the growth of the Airport up to 151,000 ATMs and 11 mppa⁸⁶, as outlined in its Masterplan 2020. This means that the growth that would be permitted by the Proposed Amendments, and indeed its carbon emissions, would be well within that allowed for in the Jet Zero modelling.⁸⁷
- d. It is no part of national aviation policy that airport capacity must be fully used elsewhere before consent is granted for growth at a particular airport, as each airport is recognised to meet the needs of its own market.⁸⁸ As such, the existence or potential existence of spare capacity at other airports is not in itself a reason for refusal of an application for growth where it is otherwise acceptable.⁸⁹ Indeed, restricting capacity at one airport until airport capacity is full elsewhere would be inconsistent with ensuring a functioning competitive market as it would lead to restricted choice for consumers and higher air fares.⁹⁰ Each proposal must be assessed on its own merits, having regard to the need for the development, based on the demand that it is expected to attract and the local environmental impacts of growth.⁹¹

London City Airport forecasts

35. As explained above, there is no dispute about the air traffic forecast modelling carried out on behalf of the Airport by York Aviation. The forecasts have been prepared using a semi-bottom-up approach, based on a projection of the underlying demand for air travel within the area served by

⁸⁴ Para 3.61 (CD3.5.7).

⁸⁵ Para 3.57 (CD3.5.7).

⁸⁶ Department for Transport, Jet Zero: modelling framework (March 2022) paras 3.16-3.20 and Annex D (CD3.5.13).

⁸⁷ Louise Congdon, Proof, para 3.4.7.

⁸⁸ Louise Congdon, Proof, para 3.5.1. This was confirmed in the recent decision on the Manston Airport application for development consent at para 37 (CD8.4).

⁸⁹ Louise Congdon, Proof, para 3.5.3.

⁹⁰ Louise Congdon, Proof, para 3.5.3.

⁹¹ Louise Congdon, Proof, para 3.5.3.

the Airport, taking into account expected economic growth and future changes in the cost of air travel, such as carbon costs.⁹² An assessment is then made of the Airport's share of the market, having regard to the characteristics of the Airport and 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.

36. The core development case forecast indicates that the Airport will reach 9 mppa and 111,000 ATMs in 2031.⁹³ This reflects a lower growth rate than seen at the Airport between 2014 and 2019 and between 2009 and 2019.⁹⁴ Without the uplift in the passenger cap and the change to opening hours sought by the Proposed Amendments, 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 effect of the current constraint in operating hours would mean that the Airport is not expected to reach its consented 6.5 mppa level until 2029, with slower growth thereafter even if the passenger cap was increased.⁹⁵

37. 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 9 mppa if the Proposed Amendments are granted planning permission.⁹⁶ The 'faster growth' case indicates that the Airport could reach 9 mppa in 2029. The 'slower growth' case, which reflects slower economic growth and the possibility of higher carbon costs, projects the Airport to reach 9 mppa in 2033.⁹⁷

38. The Airport currently handles 66% of the pre-pandemic passenger levels.⁹⁸ As explained in the evidence of Louise Congdon, the Airport's recovery from the pandemic has been slower than at other airports due to a number of short term factors.⁹⁹ In particular:¹⁰⁰

- a. The recovery of business travel, which makes up nearly half of the passenger demand at the Airport, has been slower than that of the leisure market;

⁹² Louise Congdon, Proof, para 4.3.1.

⁹³ Louise Congdon, Proof, para 4.3.12.

⁹⁴ Louise Congdon, Proof, para 4.3.12.

⁹⁵ In the 'do minimum' case. This is explained in detail in the Need Case (**CD1.60**).

⁹⁶ Louise Congdon, Proof, para 4.4.1.

⁹⁷ Louise Congdon, Proof, para 4.4.2.

⁹⁸ Louise Congdon, Proof, para 4.2.2.

⁹⁹ Louise Congdon, Proof, section 4.2.

¹⁰⁰ Louise Congdon, Proof, para 4.2.3.

- b. The Airport has not been able to take advantage of the faster recovering leisure market to the same extent as other Airports, due in large part to the limited operating hours on Saturdays;
- c. There are a number of routes and services that were displaced to the Airport from Heathrow prior to the pandemic, due to slots at Heathrow being full. Since Heathrow is currently operating below capacity, those routes and services are now being operated once again from Heathrow and have not yet returned to London City Airport; and
- d. There have been specific aircraft delivery, operational and maintenance issues that have impacted airlines' ability to operate the full range of services planned to operate from the Airport in 2023.

39. As explained in the evidence of Louise Congdon, these factors are, by their nature, short term.¹⁰¹

The range of demand forecasts produced by York Aviation have been produced using a robust methodology and are reasonable.¹⁰²

40. There is no dispute that extended operating hours on Saturday would improve the efficiency of airline operations at the Airport.¹⁰³ The commitment to only allow new generation aircraft in the additional opening hours on Saturday afternoons and for the three additional early morning slots means that airlines will have to re-fleet in order to benefit from the increased flexibility. Having acquired new generation aircraft to operate during those periods, it would make no sense not to operate those same new generation aircraft for the rest of the week.¹⁰⁴ This will have a material benefit throughout the week, as older aircraft are replaced with aircraft that have a materially better noise and environmental performance.¹⁰⁵

41. As explained above, delivering growth to meet the needs of local passengers requires the conditions to be created for the airlines to both modernise and grow their fleets of aircraft based at the Airport. Saturday afternoon opening hours are fundamental to the ability to serve key leisure destinations, which cannot be easily served by a return service within the current operating hours.¹⁰⁶ The extended Saturday hours will also improve the hub connections from the Airport, allowing local passengers to make a wider array of connections as well as supporting inbound

¹⁰¹ Louise Congdon, Proof, paras 4.2.17 – 4.2.19.

¹⁰² Louise Congdon, Proof, paras 4.5.3 to 4.5.4.

¹⁰³ LBN Statement of Case, para 5.19 (**CD10.2**). Chris Smith, Proof, para 5.17.

¹⁰⁴ Louise Congdon, Proof, para 5.1.3.

¹⁰⁵ Louise Congdon, Proof, para 5.1.6.

¹⁰⁶ Louise Congdon, Proof, para 5.2.4.

tourism. The additional operating hours on Saturday are necessary to reduce the current inefficiency of aircraft utilisation at the Airport, reducing the need to park aircraft for 24 hours over a weekend or to position the aircraft at other airports which do not have restricted operating hours.¹⁰⁷ Overall, the availability of an extended operating period on Saturday will therefore lead to an enhanced range and frequency of services being offered to consumers.

42. By incentivising re-fleeting to new generation aircraft with higher seating capacities, more consumers will be able to benefit from flying from their local airport. Given the growing population in East London, this will give them convenient access to a wider range of business and leisure destinations.¹⁰⁸ Modernisation of aircraft fleets is key to delivering real noise benefits, which would see noise levels of individual aircraft reduce on average compared to current levels, even with growth. Without a change to the operating hours, not only would growth be significantly slower, but the modernisation of the fleets would take longer to achieve, so delaying the associated noise and environmental benefits.¹⁰⁹
43. Greater flexibility in the first half hour of the day is also required to ensure that airlines can meet passenger demand and is therefore essential to delivering growth and economic benefits. As a based airline, British Airways City Flyer ('BACF') increased the number of aircraft positioned overnight at the Airport and, on many days of the year, the permitted limit of six movements in the first half hour is now fully scheduled. In practical terms, this means that additional based aircraft would have to delay their first departure at the Airport, which results in inefficiency. This, of itself, is a disincentive for any airline to base more aircraft at the Airport.¹¹⁰
44. The Proposed Amendments are therefore essential to enabling growth at the Airport and meet the underlying demand from rapidly growing base of local passengers.

Scope of dispute in respect of forecasting and summary of London City Airport's case

45. As explained above, the scope of the dispute in respect of air traffic forecasting is narrow. The only issues raised by LBN are (i) whether or not the 'downside risks' identified in the evidence of Dr Smith mean that growth at the Airport will be slower than anticipated, whilst the environmental effects of the Proposed Amendments would be felt earlier; (ii) whether the growth of 2.5 mppa could be handled at other London airports; and (iii) whether there are "*other factors*"

¹⁰⁷ Louise Congdon, Proof, para 5.4.1.

¹⁰⁸ Louise Congdon, Proof, para 5.2.7.

¹⁰⁹ Louise Congdon, Proof, para 5.2.7.

¹¹⁰ Louise Congdon, Proof, para 5.2.8.

that would influence the rate of re-fleeting.¹¹¹ These issues are addressed in detail in the Rebuttal Proof of Louise Congdon and summarised below.

46. With regards to the first issue, it is significant that LBN put its case no higher than identifying “*some risk*”.¹¹² This represents a change of position from the advice provided at the time of the determination of the section 73 application. It is based almost entirely on the short-term post-pandemic performance of the Airport.¹¹³ The evidence of Louise Congdon, as summarised above, explains in detail the short-term factors that have influenced the recovery of the Airport from the pandemic. By its nature, forecasting must grapple with uncertainties. To the extent that there are uncertainties (both those that would result in faster or slower growth), these are taken into account in the modelling. The very purpose of a Monte Carlo simulation, which is agreed to be appropriate, is to identify a reasonable range of outcomes from a combination of demand and cost factors.¹¹⁴ Furthermore, the slower growth scenario envisages the possibility that growth will be at a slower rate than the core case. For these reasons, the downside risks identified by Dr Smith do not mean that the Airport will not reach 9 mppa within the timeframe set out in the range of passenger forecasts presented.
47. Moreover, as Louise Congdon points out in her evidence¹¹⁵, the economic and consumer benefits would be realised from the first time the Airport operates within the extended operating hours as the increased passenger volume would translate into increased employment and wider economic value. Furthermore, the new slots on Saturday afternoons could only be used by new generation, quieter aircraft meaning that the noise benefits of such aircraft would be realised throughout the week from the outset. Growth on Saturday afternoons would be gradual as new generation aircraft are introduced into the fleet so the benefits and any environmental harms would be realised in tandem. Thus it is wrong to suggest that the ‘downside risks’ mean that the benefits of expansion would be felt later but the impacts earlier.
48. With regards to the argument that the additional demand can be met at other airports, this simply has no basis in policy. Moreover, meeting the demand at other airports would not be in the interests of consumers and nor would it deliver the substantial and much needed economic benefits for Newham and East London.¹¹⁶

¹¹¹ See Chris Smith, Proof.

¹¹² SOCG, para 17.1(b) (**CD11.2**). This position was confirmed in Chris Smith’s Rebuttal Proof, para 1.39.

¹¹³ Louise Congdon, Rebuttal Proof, para 2.2.5.

¹¹⁴ Louise Congdon, Rebuttal Proof, para 2.3.3.

¹¹⁵ Louise Congdon, Rebuttal Proof, para 2.4.2

¹¹⁶ Louise Congdon, Rebuttal Proof, para 2.5.2.

49. Finally, with regards to re-fleeting, there are plainly a number of factors that influence the rate at which airlines choose to re-fleet.¹¹⁷ There is no dispute, however, that the additional flexibility secured by the Proposed Amendments would have a positive effect on the decision of airlines to re-fleet.¹¹⁸ Ms Congdon's evidence, unlike that of LBN, presents a comprehensive analysis as to the effects of re-fleeting, with particular regard to the commitment to only allow new generation aircraft to operate during the additional slots, supported by a letter from BACF explaining the positive effects that the additional flexibility would have on re-fleeting.¹¹⁹

Socio-economic benefits

Local policy context

50. The Airport is situated in the Royal Docks and Beckton Riverside Opportunity Area, which is identified for significant housing and employment growth. As explained above, the economic importance of the Airport is recognised in both the London Plan and the Local Plan, reflecting the position in national aviation policy. Policy T8 of the London Plan supports the role of airports in enhancing the city's spatial growth, particularly within Opportunity Areas such as this, through making best use of existing capacity.¹²⁰ The recently published OAPF supports the "*continued success*" of the Airport as one of the "*anchor assets*" of the Opportunity Area.¹²¹

51. This is reflected in the Local Plan too; policy S3 states that "*London City Airport will continue to perform an important role in the area's 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.*"¹²²

Socio-economic benefits

52. The socio-economic benefits of the Proposed Amendments arise from both the contribution to the local economy around the Airport, but also enhancing global connectivity in support of the London wide economy.¹²³ These connections are vital for attracting investment and enhancing

¹¹⁷ Louise Congdon, Rebuttal Proof, para 2.4.4. An analysis of these factors are set out in detail in section 5.3 of Louise Congdon's Proof.

¹¹⁸ Chris Smith, Proof, para 5.19.

¹¹⁹ Louise Congdon, Proof, Apx 1.

¹²⁰ Subparagraph A **CD3.3.1**.

¹²¹ Section 3.3, page 12 (**CD3.10.1**).

¹²² Subparagraph (g) (**CD3.4.1**).

¹²³ Louise Congdon, Proof, para 6.2.1.

productivity.¹²⁴ National policy makes clear that the benefits of aviation are very substantial, such that proposals that enhance these benefits should be given very substantial weight in planning terms.¹²⁵

53. The economic benefits of the Proposed Amendments have been calculated on the basis of direct, indirect and induced impact from operation, as well as wider impacts from business productivity and inbound tourism.¹²⁶ In summary, the Proposed Amendments would deliver:¹²⁷

- a. An additional 1,870 new jobs (1,630 full time equivalent ('FTE')) across the local study area¹²⁸ of which 1,340 jobs total are direct jobs at the Airport (1,170 FTE), which will be available to local people supporting the levelling up agenda in Newham and neighbouring boroughs
- b. 2,180 jobs (1,900 FTE) in London compared to the 2019 position or 1,910 (1,660 FTE) compared to the 'do minimum' scenario;
- c. A net (additional) GVA of £205 million in the local study area compared to the 2019 position or £144 million compared to the 'do minimum' scenario;
- d. A net (additional) GVA of £249 million in London compared to the 2019 position or £175 million compared to the 'do minimum' scenario;
- e. The Airport's impact on the London economy from wider economic impacts from increased business productivity will increase to £526 million in GVA and 2,050 jobs (1,740 FTE). Compared to the 'do minimum' scenario this is an increase of 380 jobs (320 FTE) and £96 million in GVA.

¹²⁴ Louise Congdon, Proof, para 6.2.6.

¹²⁵ Sean Bashforth, Proof, para 5.14.

¹²⁶ Louise Congdon, Proof, Table 6.1, page 49.

¹²⁷ The economic benefits are set out in full in Louise Congdon's Proof, Table 6.3, page 52 and Table 6.4, page 54, Table 6.5, page 55, Table 6.6, page 56, Table 6.7, page 57 and Table 6.8, page 58. The socio-economic welfare benefits are set out in full in Louise Congdon's Proof, Table 6.9, page 60. This analysis includes an assessment of the economic benefits in the faster and slower growth scenarios. These benefits are summarised in Sean Bashforth's Proof, paras 5.18.1 – 5.18.6 for the purposes of the planning evidence.

¹²⁸ 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 (CD12.1). 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.

- f. Wider economic impacts for London from inbound tourism increasing to £559 million in GVA and 4,900 jobs (3,890 FTE). Compared to the 'do minimum' scenario this is an increase of 1,420 jobs (1,110 FTE) and £159 million in GVA.
- g. Social welfare benefits from factors such as passenger surface access time savings and cost savings which total £371 million.¹²⁹

54. As explained above, the Proposed Amendments would also result in the acceleration of the construction programme for the already approved CADP1 infrastructure and passenger facilities.

55. It is significant that there is no dispute between the Airport and LBN about the calculation or scale of economic benefits from the Proposed Amendments.¹³⁰ This is an important endorsement from the local planning authority. These substantial benefits would be delivered in a location that has long-standing deprivation and employment challenges and within a priority area for the Government's levelling up agenda.¹³¹

Scope of dispute in respect of socio-economic benefits and summary of the Airport's case

56. The sole point of dispute with LBN in respect of socio-economic benefits relates to the realisation of the benefits identified, in comparison to when the environmental effects arising from the increased operating hours will be experienced. LBN's position on the realisation of benefits is merely a consequence of its position on forecasting. In short, if the growth in forecast demand is slower, the delivery of the associated socio-economic benefits will be slower.¹³²

57. For the reasons summarised above, the forecasts that underpin the need for the Proposed Amendments are robust. They take account of a reasonable range of cost and demand factors and therefore address a range of uncertainties.

58. The scope of the dispute with HACAN East, by contrast, relates principally to whether or not there is a need to carry out a full economic assessment of the environmental effects of the Proposed Amendments. In particular, Dr Chapman argues that an analysis of the proposals must be carried out in accordance with the Department for Transport's Appraisal Guidance, known as

¹²⁹ Excluding carbon costs.

¹³⁰ SOCG, Table 8.1, page 21 (**CD11.2**): "The economic and consumer benefits offered by the Proposed Amendments are recognised and accepted" by LBN.

¹³¹ Sean Bashforth, Proof, para 5.19.

¹³² Chris Smith, Proof, para 2.9.

‘WebTAG’.¹³³ This argument was anticipated in Louise Congdon’s Proof explaining that it has been advanced (unsuccessfully) by Dr Chapman at a number of recent airport inquiries.¹³⁴

59. In summary, there is simply no requirement for a full WebTAG assessment to be carried out in the context of a planning application for an airport development. The Proposed Amendments are not a Government intervention in the market, to which WebTAG applies.¹³⁵ This is wholly consistent with the rejection of Dr Chapman’s argument in the context of appeal decisions at Bristol and Luton Airports,¹³⁶ which Dr Chapman now seeks to distinguish in order to rehearse those arguments in the context of this appeal.

60. In conclusion, there is no substantive challenge to the assessment of socio-economic benefits undertaken by the Airport. That assessment is appropriate in the context of this appeal and demonstrates that the Proposed Amendments would deliver substantial benefits in an area of high levels of deprivation and unemployment.

Noise

61. As with all development that seeks to deliver substantial socio-economic benefits, there will 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.

62. It is notable that noise is the only environmental effect that is the subject of a reason for refusal. In particular, the reason for refusal relates to the noise effects of the extended operating hours on Saturdays and the three additional early morning flights.

63. For the reasons summarised in these opening submissions, and addressed in detail in the evidence of Richard Greer, taking account of enhanced embedded mitigation the noise effects of the Proposed Amendments would not be ‘significant’ in EIA terms.

National noise policy context

¹³³ Alex Chapman, Proof, para 2.12 – 2.16.

¹³⁴ Louise Congdon, Rebuttal, para 3.2.5. In particular, Bristol Airport and Luton Airport.

¹³⁵ Louise Congdon, Rebuttal, para 3.2.7.

¹³⁶ Louise Congdon, Rebuttal, para 3.2.7. See the Bristol and Luton decisions at **CD8.1** (para 465) and **CD8.6** (paras 15.188 – 15.190).

64. The Noise Policy Statement for England 2010 ('NPSE')¹³⁷ 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. 'No Observed Adverse Effect Level' ('NOAEL'), being the level at which no effect can be detected;
 - b. 'Lowest Observed Adverse Effect Level' ('LOAEL'), being the level above which effects on behaviour and adverse impacts on health and quality of life can be detected; and
 - c. 'Significant Observed Adverse Effect Level' ('SOAEL'), being the level above which significant adverse effects on health and quality of life occur.
65. 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.¹³⁸
66. With specific regard to aviation noise, the Planning Practice Guidance¹³⁹ 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"*.¹⁴⁰ The PPG 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."*¹⁴¹ The PPG also introduces the concept of 'Unacceptable Adverse Effect Level' ('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."*¹⁴²

¹³⁷ **CD3.7.2.**

¹³⁸ Para 1.7 (**CD3.7.2**).

¹³⁹ Paragraph 005 Reference ID: 30-005-20190722 (**CD3.7.7**).

¹⁴⁰ Paragraph 005 Reference ID: 30-005-20190722 (**CD3.7.7**).

¹⁴¹ Paragraph 005 Reference ID: 30-005-20190722 (**CD3.7.7**).

¹⁴² Paragraph 005 Reference ID: 30-005-20190722 (**CD3.7.7**). 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 Proposed Amendments.

67. The PPG 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.¹⁴³
68. Paragraph 185 of the NPPF sets out 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.¹⁴⁴ 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).
69. The APF defines the Government’s objectives and policies on the impacts of aviation. In respect of noise, the APF sets out the Government’s overall objective to “*limit and where possible reduce the number of people in the UK significantly affected by aircraft noise as part of a policy of sharing benefits of noise reduction*”, consistently with the NPSE.¹⁴⁵ 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.¹⁴⁶
70. MBU 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.¹⁴⁷
71. In March 2023, Government published an update to its policy on aviation noise. The Overarching Aviation Noise Policy Statement (‘OANPS’)¹⁴⁸ 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

¹⁴³ Paragraph: 002 Reference ID: 30-002-20190722 (CD3.7.7).

¹⁴⁴ CD3.2.1.

¹⁴⁵ Para 17 (CD3.5.01).

¹⁴⁶ Paras 3.32 and 3.35 (CD3.5.1). This is consistent with the Airports National Policy Statement at para 5.62 (CD3.5.2) and the Government’s Air Navigation Guidance, Glossary in Annex A (CD3.5.9).

¹⁴⁷ Para 1.22 (CD3.5.03).

¹⁴⁸ 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.”

72. The Government has made clear that “*limit, and where possible reduce*” remains the appropriate wording.¹⁴⁹ The OANPS highlights that the economic and consumer benefits may offset an increase in the adverse effects of noise, explaining that whilst “*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]”*.¹⁵⁰

Local policy context

73. Reason for refusal 1 refers to policies D13 and T8 of the London Plan and policies SP2 and SP8 of the Local Plan.¹⁵¹
74. Policy D13 (agent of change) of the London Plan 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.¹⁵² It further states that development proposals should not normally be permitted where they have not clearly demonstrated how noise and other nuisances will be mitigated and managed.¹⁵³ However the policy also makes clear that established noise generating uses should be allowed to “*...remain viable and can continue or grow without unreasonable restrictions being placed upon them.*”¹⁵⁴
75. Policy T8 (aviation) of the London Plan 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.¹⁵⁵ It further states that any airport expansion scheme must be appropriately assessed, and if required, demonstrate an overriding public interest or no

¹⁴⁹ Page 3 (CD3.7.03).

¹⁵⁰ Page 3 (CD3.7.03).

¹⁵¹ CD4.4.

¹⁵² Criterion C (CD3.3.1).

¹⁵³ Criterion E (CD3.3.1).

¹⁵⁴ Criterion B (CD3.3.1).

¹⁵⁵ Criterion B (CD3.3.1).

suitable alternative with fewer environmental effects.¹⁵⁶ The policy also requires proposals to take full account of environmental impacts and the views of affected communities.¹⁵⁷

76. Newham Local Plan Policy SP2 (healthy neighbourhoods) requires development proposals to address various strategic principles.¹⁵⁸ The policy identifies the need to improve employment levels and reduce poverty, as factors that are important for the delivery of health neighbourhoods, whilst attending to the environmental impacts of economic development including public safety, noise, vibration and odour.¹⁵⁹ The supporting text states that the policy should be implemented generally through the deployment of other policies including Policy SP8.
77. Newham Local Plan Policy SP8 (ensuring neighbourly development) requires all development “*to achieve good neighbourliness and fairness from the outset by avoiding negative and maximising positive social, environmental and design impacts...*”.¹⁶⁰ 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, whilst also not allowing unfettered intensification of disturbance.¹⁶¹

EIA significance

78. As noted above, the concepts of LOAEL and SOAEL introduced in the NPSE do not in themselves equate to findings of ‘significance’ in EIA terms.
79. 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 development case and the ‘do minimum’ scenario in 2025, 2027 and 2031, when the airport would reach 9 mppa.¹⁶² The ES also compares the noise levels against the 2019 baseline.¹⁶³ A sensitivity test has been carried out to reflect the faster and slower growth scenarios, which result in slightly different forecast fleet mixes.¹⁶⁴ 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

¹⁵⁶ Criterion B (CD3.3.1).

¹⁵⁷ Criterion E (CD3.3.1).

¹⁵⁸ CD3.4.1.

¹⁵⁹ Criteria 1a(ii) (CD3.4.1).

¹⁶⁰ Criteria 1a) (CD3.4.1).

¹⁶¹ Para 2.113 (CD3.4.1).

¹⁶² Richard Greer, Proof, para 5.4.2.

¹⁶³ Richard Greer, Proof, para 5.4.2.

¹⁶⁴ Richard Greer, Proof, section 8.1.

number of movements have been less than this limit, as well as a sensitivity analysis for an alternative fleet mix.¹⁶⁵

80. The ES uses the daytime $L_{Aeq, 16 \text{ hour}}$ and the night time $L_{Aeq, 8 \text{ hour}}$ as primary metrics,¹⁶⁶ which is supported by certain supplementary metrics. These supplementary metrics include noise awakenings at night-time and the number of aircraft movements where the maximum noise level exceeds 60 dB or 65 dB L_{Amax} during the night and day respectively, which are the 'Nabove' metrics suggested by Government and CAA guidance.¹⁶⁷
81. 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.¹⁶⁸ There is, however, no specific guidance on how changes at weekend noise should be interpreted.¹⁶⁹ For this assessment the same criteria regarding absolute noise levels and relative changes in noise levels have been used as have been used to assess the impacts of daytime air noise. This 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.¹⁷⁰
82. The ES assigns noise levels to LOAEL, SOAEL and UAEL for each noise source.¹⁷¹ If a receptor is above the LOAEL then there is the potential for a significant effect, depending on the magnitude of change. Above the SOAEL, a smaller change is required for a significant effect to be found.
83. The LOAEL adopted for the purpose of the EIA is 51 dB $L_{Aeq, 16h}$ for day time air noise and 45 $L_{Aeq, 8h}$ for night-time air noise.¹⁷² The adopted SOAEL is 63 dB $L_{Aeq, 16h}$ for daytime air noise and 55 dB $L_{Aeq, 8h}$ for night time air noise.¹⁷³ These levels are consistent with policy and have been widely used in recent decision-making.¹⁷⁴ In terms of the magnitude of change, for receptors where the noise level would be between the LOAEL and the SOAEL, a value of 3 dB was adopted as the threshold for a significant change. In respect of receptors where the noise level would be above the SOAEL,

¹⁶⁵ Richard Greer, Proof, para 5.4.4.

¹⁶⁶ Richard Greer, Proof, para 5.7.2.

¹⁶⁷ Richard Greer, Proof, para 5.7.17.

¹⁶⁸ Richard Greer, Proof, para 5.7.19.

¹⁶⁹ Richard Greer, Proof, para 5.8.14.

¹⁷⁰ Richard Greer, Proof, para 5.8.14.

¹⁷¹ ES, Appendix 8.1 (CD1.37). Richard Greer, Proof, para 5.8.14.

¹⁷² Richard Greer, Proof, para 5.8.1.

¹⁷³ Richard Greer, Proof, para 5.8.1.

¹⁷⁴ Richard Greer, Proof, para 5.8.1 – 5.8.3.

a lesser threshold of 2 dB was adopted. A sensitivity analysis has also now been carried out to assess the effects of adopting a 1 dB magnitude of change criteria above the SOAEL.¹⁷⁵

Summary of air noise effects

84. The overall noise impacts of the Proposed Amendments are set out in full in Section 8 of the ES that accompanied the application¹⁷⁶ and are also summarised in Sections 7 to 9 of Richard Greer's Proof of Evidence. There are eight key points to note at this stage, as follows:

- a. The ES concludes that, taking account of enhanced embedded mitigation, there are no new or materially different operational noise effects due to the Proposed Amendments.¹⁷⁷
- b. Due to the increased number of aircraft movements, the Proposed Amendments would generate more noise than the 'do minimum' scenario in 2031, but less than the 2019 baseline, due to the greater use of quieter new generation aircraft.
- c. With regards to daytime noise, the number of people exposed is higher with the Proposed Amendments (2031), but all changes in daytime noise levels are rated as 'negligible'.¹⁷⁸ Compared to the 'do minimum' scenario, there are two more schools above the threshold level of 52 dB $L_{Aeq,16hr}$, 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 55 dB $L_{Aeq,16hr}$. All of the changes in noise at these receptors are less than 3 dB, therefore the effects are rated as not significant.
- d. With regards to night-time noise, the number of people exposed is broadly similar with the Proposed Amendments, compared to the 'do minimum' case (2031),¹⁷⁹ with some people forecast to experience a minor beneficial or minor adverse effect with the Proposed Amendments. Approximately 80% of those within the LOAEL and all those within the SOAEL are forecast to experience a negligible effect.¹⁸⁰ There are 70 people in 20 properties on Camel Road where noise levels are forecast to exceed the SOAEL, however these people have already been treated by the Airport's sound insulation scheme, thereby avoiding any significant effect.¹⁸¹

¹⁷⁵ Richard Greer, Proof, Appendix 1.

¹⁷⁶ **CD1.15.**

¹⁷⁷ Richard Greer, Proof, Table 9.1, page 68.

¹⁷⁸ Richard Greer, Proof, Table 7.14, page 53.

¹⁷⁹ Richard Greer, Proof, para 7.3.27.

¹⁸⁰ Richard Greer, Proof, Table 7.15, page 54.

¹⁸¹ Richard Greer, Proof, para 7.3.5.

- e. 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.¹⁸² All changes are between 0.1 and 1.9 dB and are therefore negligible.¹⁸³ Compared to the 'do minimum' scenario, there are the same number of residential healthcare buildings exposed to noise levels equal to or above the threshold level of 52 dB $L_{Aeq,16hr}$ and 18 more outdoor amenity areas exposed to noise levels equal to or above the threshold level of 55 dB $L_{Aeq,16hr}$.¹⁸⁴ All of the changes in noise at these receptors are less than 3 dB, therefore the effects are rated as not significant. The noise levels on Saturday afternoons will remain lower than Saturday mornings, which are in turn lower than weekdays.¹⁸⁵
- f. 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 0.1 dB, which is a negligible difference.¹⁸⁶
- g. 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).¹⁸⁷
- h. The sensitivity analysis using a magnitude of change of 1 dB above the SOAEL indicates that there are no receptors above the SOAEL that experience a change of 1 dB or more for summer average daytime noise. Using a 1 dB 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.¹⁸⁸ As explained by Mr Greer, this effect remains not significant in EIA terms, or in policy terms, as existing properties would benefit from the enhanced Sound Insulation Scheme that would avoid significant effects inside dwellings.¹⁸⁹

85. As a result of the Proposed Amendments, there will be a reduction in the 57 dB average summer daytime noise contour area by the time the Airport reaches 9 mppa. This represents a 17%

¹⁸² Richard Greer, Proof, Table 7.16, page 54.

¹⁸³ Richard Greer, Proof, Table 7.16, page 54.

¹⁸⁴ Richard Greer, Proof, para 7.3.30.

¹⁸⁵ Richard Greer, Proof, para 3.3.1.

¹⁸⁶ Richard Greer, Proof, para 8.1.2.

¹⁸⁷ Richard Greer, Proof, sections 8.2 and 8.3.

¹⁸⁸ Richard Greer, Proof, para 11.3.20.

¹⁸⁹ Richard Greer, Proof, para 11.3.20.

reduction when compared with the 2019 baseline and a 20% reduction compared with the current contour area cap secured by the CADP1 permission.¹⁹⁰

Noise Mitigation and Compensation Measures

86. The Airport already has a comprehensive package of mitigation and compensation measures secured through planning conditions and the section 106 agreement in respect of the CADP1 permission. These will be enhanced as part of the Proposed Amendments, as follows:¹⁹¹

- 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 sound insulation scheme to further mitigate the impact of aircraft noise on neighbouring communities. This will 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 overflown by aircraft.

87. These must be taken into account when considering the noise effects of the Proposed Amendments and the extent to which local and national policy is complied with.

Scope of dispute in respect of noise and summary of the Airport’s case in respect of noise

88. As explained above, there is no dispute between the Airport and LBN as to the assessed outputs set out in the EIA.¹⁹² The principal matter in dispute with LBN is whether or not the reduction in the curfew period would result in material harm to residential amenity as a result of a new and currently non-existent noise source.¹⁹³ Furthermore, LBN’s position is that the adverse effects from air noise are not sufficiently outweighed by the benefits of the Proposed Amendments, albeit that this matter relates to the exercise of the planning balance, as opposed to noise issues specifically.

89. In summary, the Airport’s case is that the effects of air noise are not new noise generating development and have co-existed with existing and new communities in the Royal Docks and the

¹⁹⁰ Condition 33 (**CD2.7**).

¹⁹¹ Sean Bashforth, Proof, paras 8.10 – 8.17.

¹⁹² SOCG, Table 9.1, page 24 (**CD11.2**).

¹⁹³ Both in respect of air noise and ground noise.

wider area for over 30 years.¹⁹⁴ The Proposed Amendments will not, therefore, introduce new noise and nuisance generating development.¹⁹⁵ Indeed, it is 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 noise¹⁹⁶. The Airport's sound insulation scheme 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.¹⁹⁷

90. In practical terms, with the Proposed Amendments, there will 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.¹⁹⁸ Even then, the full extent of additional flights will not be experienced at each receptor location because many of the people affected by aircraft noise from the Airport are only overflown by either westerly or easterly operations, not both.¹⁹⁹ Saturday afternoon aircraft noise will remain quieter than a Saturday morning, which is in turn quieter than a weekday.²⁰⁰ This means that the existing sound insulation scheme, which already successfully mitigates aircraft noise for residents' internal environments, will also be effective for the additional opening hours on Saturday afternoon.²⁰¹ Certain facilities, such as those used for education, are not generally used on a Saturday afternoon.²⁰²

91. 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.²⁰³ Notwithstanding this, the new Community Fund will provide the opportunity for further investment in outdoor amenity areas and in the local community more widely.²⁰⁴

92. Overall, the Proposed Amendments will help to reduce noise levels at the Airport compared to the 2019 baseline as a result of accelerating the rate of re-fleeting.

¹⁹⁴ Sean Bashforth, Proof, para 6.6.

¹⁹⁵ Sean Bashforth, Proof, para 6.6. Richard Greer, Proof, para 11.5.4.

¹⁹⁶ Sean Bashforth, Proof, para 2.25.

¹⁹⁷ Sean Bashforth, Proof, para 6.6. Richard Greer, Proof, paras 6.4.1 – 6.4.3.

¹⁹⁸ Sean Bashforth, Proof, para 4.5.

¹⁹⁹ Sean Bashforth, Proof, para 4.5.

²⁰⁰ Sean Bashforth, Proof, para 6.3.

²⁰¹ Sean Bashforth, Proof, para 6.15.2.

²⁰² Sean Bashforth, Proof, para 6.15.4.

²⁰³ Sean Bashforth, Proof, para 6.15.3.

²⁰⁴ Sean Bashforth, Proof, para 6.15.3.

93. HACAN East raise a number of additional points in respect of noise. These principally relate to the air noise generated by aircraft outside the Airport's noise contours. HACAN East presents evidence gathered as part of a 'citizen science study' that collects noise data from locations outside the Airport's noise contour but in areas overflowed by flights to the Airport.²⁰⁵ This is advanced in order to argue that (i) there are adverse effects for residents outside the Airport's noise contours,²⁰⁶ and (ii) there is evidence that the noise levels generated by new generation aircraft are not appreciably quieter in overflowed areas.²⁰⁷
94. The Airport's position on these points is set out in Mr Greer's evidence. In summary, the 51 dB LOAEL threshold is defined by Government policy and founded on evidence that below this level, exposure to noise does not have an effect on behaviour or adverse impacts on health and quality of life.²⁰⁸ With regards to the noise performance of new generation aircraft, Mr Greer's evidence sets out the strict noise parameters that aircraft must meet in order to qualify.²⁰⁹ The reduction in noise afforded by new generation aircraft is greater within the Airport's noise contours than for the more distant overflowed areas that are the focus of Hacan East's evidence.²¹⁰ In areas outside the Airport's noise contour, levels of air noise are, by definition, below the level at which adverse effects on health and quality of life are experienced. Moreover, the 'citizen science study' relied on by HACAN East adds little to the real issues.²¹¹ For the reasons explained above, it is within the contour areas that the decrease in noise resulting from the use of new generation aircraft is material.

Other matters

95. The Airport has produced a range of technical notes on matters that are not the subject of reasons for refusal, which are appended to the Proof of Evidence of Sean Bashforth and summarised in his Proof.²¹² 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 and therefore is not summarised here. In particular, no party has raised an objection to the Proposed Amendments

²⁰⁵ See Christian Nold, Proof, section 2.

²⁰⁶ John Stewart, Proof, para 2.9.

²⁰⁷ Christian Nold, proof, para 4.2.

²⁰⁸ See PPG on Noise (**CD3.7.07**). This is supported by the OANPS, which refers to limiting adverse effects above the LOAEL (51dB) (**CD3.7.3**).

²⁰⁹ Richard Greer, Proof, para 6.3.1.

²¹⁰ Richard Greer, Proof, para 6.3.2.

²¹¹ Indeed, Christian Nold recognises at para 2.57 of his Proof that the study requires validation.

²¹² Appendices 1, 2, 3 and 4.

on the basis of transport or air quality. HACAN East has raised points on both climate change and population health. As such, the Airport's position on these matters is summarised briefly below.

Carbon and climate change

96. For the purpose of opening, it is sufficient to note the following points in respect of the carbon and climate change impacts of the Proposed Amendments:

- a. Chapter 11 of the ES²¹³ provides an assessment of the carbon emissions that would result from the Proposed Amendments 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.²¹⁴ HACAN East does not dispute the assessed carbon emissions that would be generated by the Proposed Amendments.²¹⁵
- b. With regards to aviation emissions, the ES uses five tests of significance. These involve comparing the carbon emissions that would be generated by the Proposed Amendments with (i) the 'planning assumption' 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.²¹⁶
- c. This approach to assessing significance has been endorsed by the High Court in the context of the expansion of Bristol Airport²¹⁷ and Southampton Airport.²¹⁸ 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.²¹⁹

²¹³ **CD1.18.**

²¹⁴ Sean Bashforth, Proof, Appendix 2.

²¹⁵ Jake Farmer, Proof, para 5.9.

²¹⁶ **CD3.5.2.**

²¹⁷ **CD8.8.**

²¹⁸ **CD8.10.**

²¹⁹ See paragraphs 114 - 115 of the Bristol Airport judgment (**CD8.8**) and paragraphs 122 - 123 of the Southampton Airport judgment (**CD8.10**).

- d. The conclusion reached in Chapter 11 of the ES²²⁰ in respect of aviation emissions is that the change in carbon emissions that would be generated by the Proposed Amendments (as compared to the 'do minimum' scenario) would constitute a very small proportion of the 'planning assumption' (0.04% more than the 'do minimum' scenario during the 4th carbon budget and 0.14% more than the 'do minimum' scenario during the 5th carbon budget) and the Sixth Carbon Budget (0.03% more than the 'do minimum' 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 Proposed Amendments would not have a material impact on the ability of Government to meet its carbon reduction targets, including carbon budgets.
- e. In reaching these conclusions, regard has been had to the controls on aviation emissions that are imposed at a national level.²²¹ In particular, 99% of the aviation emissions (arising from 98% of flights) in the development case 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 remaining 1% of emissions in the development case 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.
- f. With regards non-aviation carbon emissions, the Proposed Amendments would make no difference to Scope 1 and 2 emissions, when comparing the emissions generated by the Proposed Amendments with the 'do minimum' scenario.²²² These emissions are subject to measures set out in the Airport'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.

²²⁰ **CD1.18.**

²²¹ As recognised in MBU, paras 1.11 and 1.19 (**CD3.5.03**).

²²² ES, Table 11-19 (**CD1.18**).

97. With regards to local policy, the recognition in national policy that aviation emissions are primarily a matter for national and not local control, coupled with the conclusions that the carbon emissions generated by the Proposed Amendments are not significant in EIA terms, means that the Proposed Amendments are in accordance with policy T8 of the London Plan insofar as it requires development proposals to “*meet their external and environmental costs*”.
98. The same analysis applies in the context of the Mayor’s carbon reduction targets.²²³ Those targets are non-statutory and do not form part of adopted development plan policy. To the extent that the ES has found the emissions generated by the Proposed Amendments to be not significant on the basis of tests of significance that have been endorsed by the High Court, they cannot be rendered significant (and material in planning terms) by virtue of such non-statutory targets.²²⁴ There is plainly no basis on which to give greater weight to non-statutory targets than statutorily adopted carbon budgets for the purposes of assessing significance.

Population Health

99. With regards to the impacts of the Proposed Amendments on public health:
- a. Chapter 12 of the ES²²⁵ provides an assessment of the effects of the Proposed Amendments in terms of population health. The outputs of this assessment are summarised in section 5 of the Public Health and Wellbeing topic paper.²²⁶
 - b. The assessment in the ES concludes that effects on residential amenity from noise generated by the Proposed Amendments are not significant from a population health perspective; and
 - c. The socio-economic beneficial effects of the Proposed Amendments are significant for population health. The overall public health effect of the Proposed Amendments is driven by the significant benefits²²⁷ 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.

Planning policy and planning balance

²²³ ‘London Net Zero 2030: An Updated Pathway’ (January 2022) (**CD3.9.6**). See Jake Farmer, Proof, para 4.23.2 in respect of HACAN East’s position on the relevance of these targets.

²²⁴ Sean Bashforth, para 7.29.

²²⁵ **CD1.19**.

²²⁶ Sean Bashforth, Proof, Appendix 3.

²²⁷ When weighed against the ‘not significant’ adverse effects from noise.

100. The effect of section 38(6) of the Planning and Compulsory Purchase Act 2004 is that the application for the Proposed Amendments must be determined in accordance with the development plan unless material considerations indicate otherwise.

101. There is no dispute that the Proposed Amendments 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 Proposed Amendments would deliver substantial economic benefits, both in the local study area where there are high levels of 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 Opportunity Area in particular. The policies referred to in the reason for refusal are policies D13 and T8 of the London Plan and policies SP2 and SP8 of the Local Plan. The effect of these policies and their relevance to the appeal has been summarised above.

102. As explained in detail in the evidence of Sean Bashforth, the Proposed Amendments are in accordance with the policies identified in the reason for refusal, for the following reasons:

- a. The environmental and health impacts of the Proposed Amendments have been fully acknowledged and appropriate mitigation has been provided.²²⁸ 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 Proposed Amendments will result in night-time noise increases for a limited number of properties above the SOAEL, but these properties are already within the Airport's sound insulation scheme.²²⁹
- b. The noise impacts of the Proposed Amendments will be managed and mitigated.²³⁰ The significant enhancement to the scope and effectiveness of the Airport's residential sound insulation scheme and will result in residents qualifying at a lower noise threshold in the intermediate tier and entitle more residents to receive a the full cost for full treatment to their homes, undertaken by the Airport's contractors.²³¹

²²⁸ As required by policy T8 of the London Plan.

²²⁹ Sean Bashforth, Proof, para 9.3.1.

²³⁰ In accordance with policy D13 of the London Plan (**CD3.3.01**).

²³¹ Sean Bashforth, Proof, para 9.3.2.

- c. The Proposed Amendments would deliver ‘neighbourly development’ by reducing the overall noise at the Airport, as a result of accelerating the process of re-fleeting.²³²
- d. The Proposed Amendments 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.²³³

103. Taking these policies together with the range of other policies in respect of which there is no dispute as to compliance, the Proposed Amendments clearly accord with the development plan taken as a whole. However, even if the Proposed Amendments did not accord with those policies identified in the reason for refusal, the Airport’s case is that any such conflict would be outweighed by other material considerations indicating that planning permission should be granted. In particular:

- a. The Proposed Amendments 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. The Proposed Amendments 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. The Proposed Amendments share the noise benefits from fleet modernisation with the community through the reduction of the noise contour by 20% to 7.2km² and reducing overall aircraft noise throughout the week .
- d. The Proposed Amendments 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. The Proposed Amendments allow growth consistent with the Government’s JZS trajectory and its carbon budgets and 2050 ‘net zero’ target.
- f. The Proposed Amendments 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.

²³² In accordance with policy SP8 of the Local Plan (**CD3.4.01**).

²³³ In accordance with policy SP2 of the Local Plan (**CD3.4.01**). Sean Bashforth, Proof, para 9.3.4.

104. It is notable that whilst LBN does not challenge the scale of economic benefits that would be delivered by the Proposed Amendments, in determining the application it afforded little, if any, weight to these.

105. The weight of national planning policy with which the Proposed Amendments accord, taken together with the substantial socio-economic and consumer benefits that would be delivered, weigh strongly in favour of granting permission.

Conclusion

106. For the reasons summarised above, and set out in detail in the written proofs of evidence, it will be the Airport's case that the Proposed Amendments provide an opportunity to deliver increased connectivity, productivity, and economic growth to the local area, to the London Borough of Newham, where there is a recognised need for such benefits, and to London more broadly. The Proposed Amendments are in accordance with the development plan taken as a whole and there are no material considerations that indicate that planning permission should be refused. For these reasons, in due course we will invite the Inspectors to allow the appeal and grant planning permission.

Michael Humphries KC

Daisy Noble

5 December 2023

Francis Taylor Building