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# **Rebuttal Proof of Evidence**

**Of Sean Bashforth (for  
the Applicant) on  
Planning Matters**

Application by London Luton Airport  
Operations Limited

London Luton Airport

LBC REF: 21/0031/VARCON

PINS REF: PCU/RTI/B0230/3269175

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**SEPTEMBER 2022**

Q220451

# Contents

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1	Introduction _____	3
2	Assessment and policy compliance _____	4
3	Planning Controls _____	6
4	Other Matters _____	9

## Appendices

Appendix 1	LLAOL Response to Comments on GIS
Appendix 2	S106 Agreement relating to Belfast City Airport
Appendix 3	Extracts of Noise Report, Approved 2 March 2015

# 1 Introduction

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- 1.1 I have prepared this rebuttal proof of evidence (“Rebuttal”) on behalf of the Applicant in response to the evidence of Mr Alastair Skelton and Mr Andrew Lambourne acting on behalf LADACAN.
- 1.2 Consistent with the scope of my original evidence, I focus primarily on planning policy and the planning balance. Other members of the Appellant Team respond on noise, climate change and socio-economic matters.
- 1.3 References to proofs of evidence are in the form of the author’s initials and the paragraph number, with AS4.6 for instance referring to paragraph 4.6 of Mr Alistair Skelton’s proof of evidence.
- 1.4 For the avoidance of any doubt, I continue to rely upon my main proof of evidence (August 2022) and the Applicant’s other evidence. I do not seek to deal with each and every point of disagreement in this rebuttal. Such points will be dealt with at the public inquiry in the usual way. I simply identify those points where I consider it may assist the Inspectors to have a response in writing on behalf of the Applicant before the start of the inquiry.

## 2 Assessment and policy compliance

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- 2.1 In this section of my Rebuttal I respond to section 4 of Mr Skelton's proof of evidence '*Assessment of Key Issues*'.
- 2.2 Both the Applicant, and now the Council as explained in the evidence of Mr Gurtler, consider that the Proposed Scheme is consistent with the Local Plan including policies LLP6 and LLP38.
- 2.3 In my view Mr Skelton has misinterpreted Policy LLP6 in several respects and he is wrong to suggest that the Proposed Scheme is contrary to the Local Plan.
- 2.4 First, Mr Skelton claims that in principle it is not possible to comply with the policy because the proposals generate the need to formally amend the noise contours (up to and beyond 2028) and therefore this change must be material in planning terms contrary to LLP6B(v) (AS4.15 bullet 2). However, Mr Skelton has made no attempt to analyse what the noise impacts of the Proposed Scheme actually are against the materiality test in this criteria. In my view, it is wrong to equate a change to a noise contour as being a material impact without any consideration of the specific impacts and whether they themselves are material.
- 2.5 Criterion v requires further noise reductions, or no material increase in day/night time noise, or to not otherwise cause excessive noise and this has to be considered having regard to the nature and scale of proposals (first part of Part B). Materiality has therefore to be established by considering the change in noise particularly at sensitive receptors (dwellings, schools etc) close to the airport and, as explained in my evidence (SB5.3 and SB5.4) and that of Mr Thornely-Taylor, where there are changes of less than 1dB these are not considered to be perceptible in noise terms. These are not significant in EIA terms and not perceptible as identified by Mr Thornely-Taylor. Therefore, my view is that these increases are not material and therefore not contrary to criterion Bv of Policy LLP6.
- 2.6 Second, there appears to be a misconception from Mr Skelton that Policy LLP6 is predicated on the control of the Airport up to 18mppa where it is asserted that the benefits are "baked in" (AS4.19). This is wrong in principle. As I noted in my evidence (SB4.4), the policy does not purport to preclude more than 18mppa at the Airport. Whilst the Local Plan supporting text<sup>1</sup> refers to the Airport growing to an operating capacity of 18mppa, the policy was adopted afterwards (in 2017) and clearly envisaged the possibility of further proposals because Section B of the policy is headed 'Airport Expansion'. The first part of the policy itself explains the strategic role of the Airport and associated growth being important for Luton, the sub-regional economy and for regenerating the wider conurbation. Consideration of compliance with the specific criteria in Part B of the policy must also therefore take into account how any expansion proposals affect this strategic objective of the policy.
- 2.7 The benefits of the Proposed Scheme are set out in the evidence of Mr Hunt and are clear for any decision maker to understand in the planning balance. I have sought to summarise them in Section 7 of my evidence (SB7.21 to 7.28) and I consider that they demonstrate a further

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<sup>1</sup> Paragraph 4.45 refers to the 2014 permission 12/01400/FUL allowing 18mppa

strand of compliance with LLP6 and weigh positively in the planning balance (contrary to what is suggested at AS4.40), particularly when also considered in the context of national policy which stresses the importance of growth at airports and levelling up which is specifically relevant to Luton.

- 2.8 Third, Mr Skelton has not properly recognised how proposed revisions to condition 10, with stepped reductions in the noise contour, means that the Proposed Scheme delivers a significant diminution and betterment of effects of aircraft operations on the amenity of local residents etc. over time consistent with part Bvii of policy LLP6. Proposed Condition 10 includes stepped noise contour limit reductions from 2028 and 2031 onwards. Mr Skelton (AS2.7) does not acknowledge the second step down in the noise contour from 2031 onwards.
- 2.9 Mr Skelton (AS4.15 bullet 3) alleges that there is no clear strategy or methodology about how changes to aircraft mix, aircraft types and overall ATMs will be managed. In my experience, these will be required to occur as a result of the overall contour cap and other planning controls (including passenger cap). Further, reasonable assumptions based on actual data have informed the forecasts that underlie the noise assessment and related proposed noise contour caps.
- 2.10 As I explain in the next section of my rebuttal, the forecasts (including aircraft mix, types and overall ATMs) are reliable and the key issue is not the in principle application of the noise contour condition with stepped reductions (similar to those applied at many major UK airports), but the normal ways in which compliance is monitored and remedial action taken before planning controls are breached.
- 2.11 In terms of national policy in the NPPF, Mr Skelton suggests (AS4.24) that the Proposed Scheme does not comply because he claims it does not avoid significant adverse noise impacts. However, Mr Skelton has not actually considered whether the noise impacts arising from the Proposed Scheme are significantly adverse; which they are not. As set out in the ESA4 and explained in the Applicant's evidence, the very small increase in noise is insignificant, short term and needs to be balanced by improvements over time and significantly enhanced sound insulation (again not a factor considered in Mr Skelton's evidence nor indeed LADACAN's noise witness, Mr Roberts).
- 2.12 For the reasons explained above, economic benefits arising from the Proposed Scheme are clearly expressed and weigh strongly in favour of the grant of planning permission. Contrary to what is suggested by Mr Skelton (AS4.31/2), the decision makers can clearly understand the specific benefits (economic and social). Mr Hunt's evidence explains why the approach taken is entirely consistent with other recent airport decisions in terms of how those benefits should be quantified, including not using the Webtag methodology (as is erroneously suggested by Dr Chapman).

### 3 Planning Controls

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- 3.1 LADACAN allege that some incidents of not being able to comply with noise contours controls precisely means that there can be little confidence that proposed planning controls can be effective going forward. I disagree. **Appendix 1** comprises a note prepared by the Airport which responds to Mr Lambourne's (AL63 onwards) incorrect characterisation of the Growth Incentive Scheme (GIS). The remainder of this section considers the effectiveness of planning controls.
- 3.2 Both Mr Lambourne and Mr Skelton express concern about carrying forward the current suite of planning controls for the Proposed Scheme.
- 3.3 As advised in paragraph 56 of the NPPF, planning conditions should be kept to a minimum and only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
- 3.4 In my view, the proposed range of planning controls for the Proposed Scheme meet these requirements.
- 3.5 Mr Skelton's evidence (AS4.37) expresses concern about the clarity and robustness of the assumptions adopted by the Applicant to arrive at the proposed noise contours and to fully understand the background to the conditions.
- 3.6 As explained in my proof of evidence (SB2.23) there were several reasons why the noise contours were larger than originally forecast in 2012, including slower reflecting, poorer noise performance than predicted and a series of severe weather events. The noise forecast limits were based on assessments undertaken in 2012 (ESA1) for a period up to 2028. As set out in the Applicant's evidence (e.g. SB8.14), the decision makers can have full confidence in the forecasts underpinning ESA4 and the revised proposed noise contour limits because:
- a) They are for a much shorter period, with the planned growth being expected to be reached by 2028 (6 years from the 2022 assessment date in ESA4) rather than the 16 year time horizon in the original 2012 assessment (18 million passengers was predicted to be met by 2028);
  - b) They are based on data from next generation aircraft that are actually flying which means that the noise analysis is based on actual, rather than theoretical, noise performance; and
  - c) These aircraft are now being delivered with previous barriers to their planned delivery overcome, particularly now issues with the Boeing 737 Max have been signed off by regulatory bodies.
- 3.7 In my experience, the noise planning controls are comparable to those that have been recently imposed at other airports which also have a combination of caps on passengers, quota counts and contour limits.

- 3.8 Mr Skelton advocates a penalties type system with reference to controls at Belfast City Airport (AS4.46/4.47). Appendix 3 of his evidence includes extracts from a 2015 Planning Commission's report in his attempt to support the introduction of sanctions or penalties for breaches of the noise contour limit. However, the final July 2019 Planning Agreement between the Government and that Airport (which I provide in **Appendix 2**) only provides for penalties to be applied if the number of out of hours operations exceeds 480 in a year and for individual aircraft exceeding noise limits. There are no fines or sanctions for an exceedance of the contour limit, rather the requirement is for an action plan to be produced and implemented (6.7.15, page 14).
- 3.9 I am also not aware of any noise contour penalties system being imposed at any other UK airport including by Inspectors, LPAs and the Secretary of State in recent decisions on Stansted, Bristol, Southampton and Manston Airports. In my view, doing so would not meet the necessity test for conditions nor accord with the guidance to keep controls to a minimum.
- 3.10 In February 2019 the CAA published 'Aviation Strategy: Noise Forecast and Analyses'. This report presents a feasibility study of the pros and cons that noise limits may create. Table 2.6 presents the noise limit schemes in the top 10 busiest airports (by number of passengers) and indicates that Luton has noise quotas and a noise contour area and clearly also has a passenger cap which this application proposes to increase from 18 to 19 mppa.
- 3.11 As Table 2.4 of CAP1731 explains, monetary penalties lack the ability to enforce compliance during the monitoring period and require retrospective action. Addressing matters retrospectively appears to be one of the main complaints of LADACAN in relation to what has occurred in the past. In my view, it would be more appropriate to ensure that there are checks and balances before any exceedances take place which would also be consistent with the principles of the NPSE/NPPG to seek to avoid noise in the first place.
- 3.12 Noise contour Condition 10 of the 2017 Permission makes reference to a Noise Report approved on 2 March 2015. This was originally submitted pursuant to the 2014 Permission (LPA ref. 14/01519/DOC) and amongst other things sets out information requirements in respect of noise contour information (see extracts in **appendix 3**). I am instructed that the Airport has provided information consistent with these requirements.
- 3.13 However, as well referring to out of date conditions, this 2015 Noise Report makes it clear that corrective action needs to be agreed and implemented in the event that noise contour breaches may take place. Reference to the Noise Report has now been omitted from proposed Condition 10 and to provide additional clarity the Airport has agreed the principle of an updated draft Noise Management Plan with the Council. Paragraph 6.1.9 includes the requirement to submit a Contour Action Plan in order to ensure corrective action takes place in the event of a potential breach:

*6.1.9 With respect to "trends" and "relevant features" identified in the annual reports, LLAOL will study any adverse trends or features and seek to establish causes, and will set out in a Contour Action Plan what actions will be taken by LLAOL or airlines to avoid repetition. The Contour Action Plan should be prepared and agreed within [6 weeks] of LLAOL notifying LBC of any potential exceedances of the noise contours. Once agreed, the Contour Action Plan will be publicised by [x] and LLAOL will provide regular updates on the effectiveness of the measures being taken until the adverse trends and features are no longer predicted. Actions*

*could include detailed operational decisions which would be resolved at the regular "Flight Ops" Committee meetings.*

- 3.14 In my view this requirement is similar to the obligation in the Belfast City Agreement that was actually imposed, and will ensure that there is close monitoring of compliance with the contour condition and then a clear course of action must be agreed expediently in order to ensure that, in the unlikely event an exceedance is predicted to occur, this is addressed before it takes place.



## 4 Other Matters

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### Climate Change

- 4.1 It is not evident to me that LADACAN are actually alleging any conflict with the development, or national policy on Climate Change matters and they have no basis for doing so. I note:
- a) Mr Skelton's evidence does not consider climate change matters as part of his planning balance in section 4 of his evidence (AS 4.34 to 4.41).
  - b) Under the Climate Change heading of Section 4 of Mr Skelton's evidence there is no reference to any conflict with any local plan policy or national policy. Reference is made to the Council's Climate Change emergency declaration (AS4.42), but this is not part of any statutory development plan policy and separately, as indicated by their resolution to grant planning permission, the Council has satisfied itself that planning permission can be granted in the knowledge of this declaration.
  - c) Ms. Hewitt's evidence is largely expressing her own personal disagreement with national policy on climate change. Clearly, recently published national policy is a significant material consideration and cannot be set to one side simply because LADACAN does not agree with it. Indeed, in the absence of local plan policies specifically relating to climate change and aviation, national policy has to be the starting point for considering climate change matters on aviation. For the reasons explained in the Applicant's evidence which aligns with the approach taken by decision makers in the Stansted, Bristol and Manston decisions, I consider that the Proposed Scheme complies with national policy in the Jet Zero Strategy and other documents.

### Environmental Information

- 4.2 Mr Skelton claims (AS1.11) that *"In general terms case law indicates that whilst an Environmental Statement (ES) need not be a single document and it may include updated information the public must not be expected to engage in a 'paper chase' to effectively piece together the contents of the ES. I am aware that LADACAN and its technical experts have had considerable difficulties in trying to piece together and understand the most recent updates to the ES given their piecemeal nature"*.
- 4.3 I note that Mr Skelton does not contend that the ES prepared in support of the Application constitutes a 'paper chase' and there would be no basis for doing so. He asserts that his technical experts had difficulties in understanding the environmental information but there is no basis for this.
- 4.4 The ES submitted in support of the present Application is the ES Addendum dated January 2021 ("ESA2")<sup>2</sup>. During the determination of the Application the Council made a request under Regulation 25 of the Town and Country Planning (Environmental Impact Assessment)

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<sup>2</sup> CD1.09 and CD1.10

Regulations 2017<sup>3</sup> ("EIA Regs"). That request required updates to Chapter 8 on noise. This led to the preparation of an updated version of Chapter 8 which was submitted in tracked changes and clean. This updated Chapter 8 (or "ESA3")<sup>4</sup> superseded the equivalent chapter in ESA2 except for the Appendices which remained extant. The Council resolved to approve the Application in December 2021 on the basis of the information contained in ESA2 and ESA3.

- 4.5 The Secretary of State<sup>5</sup> subsequently called in the Application on 6 April 2022. Due to the passage of time since the Council determined the Application and the start of the inquiry, it was considered necessary to, where relevant, update the environmental assessments to account for the shift (by one year) of the key assessment years. To this end, a further ES Addendum ("ESA4")<sup>6</sup> was prepared and submitted to the Planning Inspectorate.
- 4.6 Both ESA2 and ESA4 are supported by non-technical summaries<sup>7</sup> in accordance with the requirements of the EIA Regs.
- 4.7 An ES structure infographic<sup>8</sup> and supporting note<sup>9</sup> (the "navigation documents") were produced at the request of the Inspectors to assist their understanding of the structure of the relevant environmental information before the Inquiry.
- 4.8 In my experience, the way in which the ES for this Application has evolved is not unusual. There should be no confusion as to what constitutes the environmental information relevant to this Application and there is no technical deficiency or error in the approach adopted by the Applicant. If there remain any queries about the environmental information, these can be clarified at the request of the Inspectors or Secretaries of State as necessary.

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<sup>3</sup> SI 2017/571

<sup>4</sup> CD4.06

<sup>5</sup> Secretary of State for Levelling Up, Housing and Communities

<sup>6</sup> CD1.16 and CD1.17

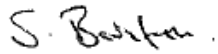
<sup>7</sup> CD1.08 and CD1.18

<sup>8</sup> CD1.20

<sup>9</sup> CD1.19

## DECLARATION

The evidence which I have prepared and provide for this planning appeal in this proof of evidence is true and has been prepared and is given in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.



Sean David Bashforth, Senior Director

20 September 2022

**APPENDIX 1 LLAOL RESPONSE TO COMMENTS ON GIS**

## **RESPONSE BY LLAOL TO ANDREW LAMBOURNE'S COMMENTS ON THE GROWTH INCENTIVE SCHEME**

1. This note responds to the comment made by Mr Andrew Lambourne on the Airport Growth Incentive Scheme (GIS).
2. The Airport rejects in the strongest possible terms any suggestion that it knowingly breached local planning controls in pursuit of an accelerated growth plan.
3. Between 2014 and 2019 all London airports grew by a similar amount (7.5mppa – 8.5mppa) demonstrating that there was significant demand for UK air travel particularly in the south-east combined with low air fares, low fuel prices and the introduction of new airlines (Wizz Air). Had the Airport been aware of the rapid growth and demand for air travel that followed the forecasts made in 2013, it is likely that the original planning application would have been more ambitious in scope.
4. As an organisation, the Airport aims to be open and transparent at every level and this includes regularly reporting the latest passenger and flight data through its Quarterly and Annual Monitoring reports.
5. When it became clear that the noise contour limit was likely to be exceeded in 2017, the Airport immediately informed the local planning authority and took action in the form of additional restrictions in an attempt to reduce the contour size in 2018. Unfortunately these measures proved unsuccessful, so the Airport initially applied to the local authority to vary this condition in 2019. The application was subsequently withdrawn and has been superseded by the application currently under consideration.

### **Response to specific matters raised in Proof of Evidence**

6. The Airport has reviewed the proof of evidence of Mr Lambourne and remains firmly of the view that it is wrong to suggest that the GIS drove the Airport to pursue actions which conflicted with planning controls.
7. Paragraph 67 of Mr Lambourne's evidence asserts that GIS resulted in reduced costs for airlines delivering consistent year-on-year growth, causing consolidation, influencing fleets and applying pressure to sustain growth. Dealing with each in turn:

***“1. Consolidation –airlines benefiting from the reduced costs would have competitive advantage which may favour their growth as opposed to that of an unrewarded competitor, consolidating their position and perhaps reducing diversity in the customer mix (which has potential risks of increasing the dependence of the business on those airlines, and increases the leverage of those airlines over the business”***

8. The scheme was designed as non-discriminatory giving no advantage to new airlines or incumbents. New airlines had the advantage of having a baseline of zero passengers. Therefore in the first year of operations of a new airline under the scheme, all passengers would be considered additional and therefore eligible under the scheme.
9. The GIS had a minimum threshold of 2,000 passengers per annum. This meant that any participating airline would only have to operate around 6 rotations on a standard narrowbody aircraft to gain the benefit.
10. Under IATA slot rules, an airline is required to hold a slot for a minimum of 5 weeks for it to be defined as a series of flying. Therefore, the 2000 passenger threshold would capture almost all carriers operating even the shortest series of flights. Ad-hoc operations were effectively excluded by the minimum threshold clause, unless they operated sufficiently frequent ad hoc flights to exceed the 2,000 passenger threshold.

***“2. Fleet influence –airlines seeking to achieve the rewards could schedule larger aircraft or more aircraft to add passengers, perhaps by displacing business from elsewhere, which if done before aircraft were modernised would result in increased noise.”***

11. The Airport grew at a comparable level to both Stansted and Gatwick with similar growth in additional movements and efficiency benefits from upsizing and higher load factors.
12. The acquisition of based aircraft slots from now defunct Monarch by Wizz Air drove significant passenger growth in 2017 and 2018 as the latter had higher year round aircraft utilisation and higher load factors. Due to the seasonal nature of Monarch’s operations, the acquisition did not make a material impact on the number of flights that operated by the based aircraft in the 92 day summer period, and would have made limited impact on the noise contour.

13. It must also be remembered that the GIS was paid for incremental passengers only, therefore an upgrading of an A319 to an A320 would only present an incentive for an airline of up to 30 passengers, which would equate to around a £50 rebate per flight. Once the growth was in the baseline there was no ongoing growth incentive reward.
14. Such a small increase to an airline's cost base would not be sufficient to drive a change of aircraft basing.
15. All major incumbent airlines have clear fleet renewal programmes that include upsizing of aircraft. It is our view that the increase in size of average aircraft would have occurred at London Luton (in line with comparable rates at Stansted and Gatwick) regardless of the GIS scheme.
16. This is further evidenced by the continued pattern of upsizing seen since the end of the GIS scheme with average aircraft size in August 2019 being 187.3 seats per aircraft compared to 190.6 in August 2022.

<b><i>"3. airlines depending on the reduced costs may apply pressure to sustain the scheme."</i></b>
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17. The scheme finished in 2020. The growth incentive scheme was in place for a period that ran for 6 years that started in April 2013 – March 2014 and ended April 2019-March 2020. The scheme was incremental only and applied a discount that was marginal compared to the overall expenditure.
18. LLAOL negotiates solely with airlines in its capacity as airport operator based on prevailing market conditions. The scheme applied only to year on year incremental growth and the scheme was administered in arrears, preventing it from being relied upon.

# APPENDIX 2 S106 AGREEMENT RELATING TO BELFAST CITY AIRPORT



DATED THIS 22 DAY OF July 2019

LAND REGISTRY FOLIO: AN166357L COUNTY ANTRIM  
REGISTERED OWNER: BELFAST CITY AIRPORT LIMITED  
CHARGE: THE ROYAL BANK OF SCOTLAND PLC

BELFAST CITY AIRPORT LIMITED

AND

THE DEPARTMENT FOR INFRASTRUCTURE

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AGREEMENT PURSUANT TO SECTION 77(1)(a)  
OF THE PLANNING ACT (NORTHERN IRELAND) 2011

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THE DEPARTMENTAL SOLICITOR'S OFFICE  
3<sup>RD</sup> FLOOR CENTRE HOUSE  
79 CHICHESTER STREET  
BELFAST  
BT1 4JE

LAND REGISTRY FOLIO: AN166357L COUNTY ANTRIM  
REGISTERED OWNER: BELFAST CITY AIRPORT LIMITED  
CHARGE: THE ROYAL BANK OF SCOTLAND PLC

**THE PLANNING ACT (NORTHERN IRELAND) 2011  
AGREEMENT PURSUANT TO SECTION 77(1)(a)**

THIS DEED is made the 22 day of JULY 2019 between

- (1) BELFAST CITY AIRPORT LIMITED having its registered office at Sydenham Bypass, Belfast BT3 9JH Company No NI 16363 ('the Company')
- (2) DEPARTMENT FOR INFRASTRUCTURE of Clarence Court, Adelaide Street, Belfast ('the Department')

**WHEREAS:**

1. The Company, Short Brothers plc and the Department of the Environment entered into an agreement pursuant to Article 40 of the Planning (Northern Ireland) Order 1991 on 22 January 1997 ('the 1997 Planning Agreement')
2. By virtue of a Deed of Surrender dated 3 August 2001 Short Brothers plc surrendered its interest in the Aerodrome
3. The Company and the Department of the Environment entered into an agreement pursuant to Article 40A(1)(a) of the Planning (Northern Ireland) Order 1991 on 14 October 2008 ('the 2008 Planning Agreement')
4. The Company is the holder of a leasehold estate in the Aerodrome of which not less than 95 years of term remain unexpired under leases dated 3 August 2001 and 16 May 2006 respectively
5. The Department is the planning authority by which the covenants contained in this agreement are enforceable
6. The Department appointed the Planning Appeals Commission ('the PAC') to carry out a public inquiry in respect of the Company's request to vary the 1997 Planning Agreement as amended by the 2008 Planning Agreement
7. The Company is required to maintain and regularly review its Noise Action Plan made pursuant to the Environmental Noise Regulations (Northern Ireland) 2006

**NOW THIS DEED WITNESSETH AS FOLLOWS:**

1. This Agreement is made pursuant to Section 77(1)(a) of the Planning Act and modifies the 1997 Planning Agreement as modified by the 2008 Planning Agreement. The 1997 Planning Agreement shall remain fully

effective save as modified by the 2008 Planning Agreement and by this Agreement and the terms of the 1997 Planning Agreement shall have effect as though the provisions contained in this Agreement had been contained in the 1997 Planning Agreement with effect from the date hereof

2. Interpretation

- 2.1. In this Agreement the following expressions shall have the following meanings:-
  - 2.1.1. 'the Aerodrome' means George Best Belfast City Airport, Airport Road, Belfast shown edged red, for the purposes of identification only, on the Plan attached
  - 2.1.2. 'the Company', and 'the Department' shall include their successors in title and assigns
  - 2.1.3. 'person' means a natural person or any corporation or any public local or municipal authority or government department in the United Kingdom or elsewhere or other entity which is given or recognised as having legal personality by the law of any country or territory
  - 2.1.4. 'the Planning Act' means the Planning Act (Northern Ireland) 2011
- 2.2. Words importing the singular shall be construed as importing the plural and vice versa
- 2.3. Any references to a statute or statutes (whether specifically named or not) or to any sections or sub-section therein shall include any amendments or re-enactments thereof for the time being in force and all statutory instruments, orders, notices, regulations, directions, bye-laws, permissions and plans for the time being made, issued or given thereunder or deriving validity therefrom
- 2.4. The titles or headings appearing in this Agreement are for reference only and shall not affect its construction or interpretation

MODIFICATION

- 3. From and including the date hereof the 1997 Planning Agreement shall be modified in the following manner:-
  - 3.1. The Third Schedule of the 1997 Planning Agreement as amended by the 2008 Planning Agreement shall be deleted and replaced with the First Schedule hereto

OTHER PROVISIONS

#### 4. Service of Notices

- 4.1. Any Notice required to be served under this Agreement shall be sufficiently authenticated:-
  - 4.1.1. on behalf of a party hereto which is a body corporate by its secretary or any director or its solicitor or surveyor for the time being
  - 4.1.2. on behalf of an individual by himself or herself or his or her agent for the time being
- 4.2. Any notice shall be sufficiently served on either party if addressed to that party and left at or sent by post or facsimile transmission at the address of that party
- 4.3. Any notice sent by post shall be deemed to be given 24 hours after the time of posting

#### 5. WAIVER

No Waiver (whether express or implied) by the Department of any breach or default in performing or observing any of the covenants terms or conditions of this Agreement shall constitute a continuing waiver and no such waiver shall prevent the Department from enforcing any of the relevant terms or conditions or from acting upon any subsequent breach or default.

#### 6. REGISTRATION

The Company agrees to and acknowledges notice of this Agreement being registered as a statutory charge against the Aerodrome in the Statutory Charges Registry and in the Land Registry against the folios comprising the Aerodrome.

#### 7 GENERAL

The parties agree that:

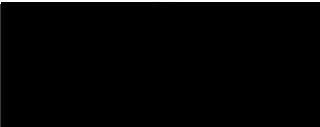
- 7.1 this Agreement constitutes a deed.
- 7.2 this Agreement does not nor is it intended to confer a benefit on a third party within the meaning of the Contracts (Rights of Third Parties) Act 1999.

IN WITNESS WHEREOF this Agreement has been executed on behalf of the parties hereto the day and year first herein written

PRESENT when the Common  
Seal of BELFAST CITY AIRPORT  
LIMITED was affixed hereto:-



DIRECTOR



DIRECTOR

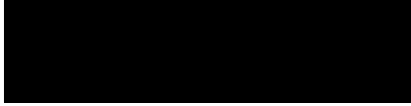
In the presence of :-



SOLICITOR

50 BEDFORD STREET  
BELFAST  
BT2 7FW

The Official Seal of the DEPARTMENT  
FOR INFRASTRUCTURE was  
Affixed hereto in the presence of:-



DIRECTOR OF STRATEGIC PLANNING.  
DEPARTMENT FOR INFRASTRUCTURE.

FIRST SCHEDULE  
Planning Covenants  
PART I

**DEFINITIONS and interpretation**

In this Schedule:

1. 'Air Traffic Movements' (ATM) means landings or take-offs of all aircraft (except Diverted Aircraft) at the Aerodrome
2. 'Airport Forum' means the body established pursuant to the Airports (Northern Ireland) Order 1994 and the Airports (Designation) (Facilities for Consultation) Order (Northern Ireland) 1997
3. 'Annex 16' means the Eighth Edition of Volume 1, Part II of Annex 16 to the Convention on International Civil Aviation as updated from time to time
4. "the Annual Performance Report" means an annual report to be submitted to the Department in accordance with paragraph 1 of Part II of the First Schedule of this Agreement
5. "the Community Fund" means the fund launched by the Company in February 2009 with the aim of supporting the local community surrounding the Aerodrome and improving the impact of their events and initiatives through funding organisations who meet the criteria guidelines published on the Company's website
6. A 'Continuous Descent Approach' means an arrival that, between the (typical) measured height band 6000ft - 1800ft, it contains:
  - no Level Flight; or
  - one phase of Level Flight not longer than 2.5NM
7. 'Delayed Aircraft' means Scheduled Aircraft which have been delayed for any reason whatsoever
8. 'Diverted Aircraft' means aircraft diverted to the Aerodrome for any reason whatsoever from any airport'
9. 'Extended Hours' means between the hours of 9.31 pm and 11.59 pm local time
10. 'Level Flight' means a flight when the rate of descent is less than 150 feet per minute over 2NM (nautical miles)
11. 'Marginally Compliant Aircraft' means civil subsonic jet aeroplanes, that meet the certification limits as laid down in Chapter 3 of Annex 16 by a cumulative margin of not more than 5 EPNdB, whereby the cumulative margin is a figure expressed in EPNdB obtained by adding the individual margins at each of the three reference noise management points as defined in Chapter 3 of Annex 16

12. 'Permitted Hours' means between the hours of 6.30 am and 9.30 pm local time
13. 'Prohibited Hours' means between the hours of 9.31pm and 6.29 am local time
14. 'Scheduled Flight' means Air Traffic Movements programmed to use the Aerodrome
15. 'Scheduled Aircraft' means aircraft on Scheduled Flights



## PART II

### The Covenants

The Company covenants with the Department:

#### 1 Annual Performance Report and compliance

- 1.1 To submit the Annual Performance Report by 31<sup>st</sup> March in each calendar year and within the Annual Performance Report to report on the performance and compliance with the covenants in this Agreement in the preceding calendar year in a form which complies with this Agreement and which shall include all the annual reporting requirements contained in this Agreement or as agreed with the Department from time to time and which shall be published on the Company's website.
- 1.2 To hold meetings and or discussions with the Department in order to review compliance with this Agreement and promptly address any legitimate compliance issues identified and raised by the Department and shall thereafter promptly implement the Department's required actions for improvement.
- 1.3 To include all outstanding actions for improvement (if any) required by the Department in the Annual Performance Report
- 1.4 To implement such actions for improvement within the timeframe required by the Department

#### 2 Hours

- 2.1 That no Scheduled Aircraft except Delayed Aircraft shall use the Aerodrome during Prohibited Hours
- 2.2 That no Delayed Aircraft shall use the Aerodrome except during Permitted Hours or Extended Hours
- 2.3 Only in exceptional circumstances to permit Delayed Aircraft to use the Aerodrome during Extended Hours  
save that Diverted Aircraft may use the Aerodrome at any time
- 2.4 That the Company shall:
  - 2.4.1 provide to the Department a bi-monthly written report listing the Delayed Aircraft using the Aerodrome outside of Permitted Hours and the circumstances for any aircraft using the Aerodrome during Extended Hours in sufficient detail to permit the Department to assess compliance with paragraphs 2.1 -2.3
  - 2.4.2 annually on 31<sup>st</sup> March every year as part of the Annual Performance Report submit to the Department written details of every Delayed Aircraft using the Aerodrome outside of Permitted Hours and the circumstances for any aircraft using the Aerodrome during Extended Hours in sufficient detail to permit the Department to assess compliance with paragraphs 2.1 – 2.3 and

2.4.3 administer a fining mechanism in respect of all Delayed Aircraft using the Aerodrome during Extended Hours in accordance with the scheme set out at Annex B and ensure that all such fines are promptly lodged in full in the Community Fund and include a written report of the payments into and out of the Community Fund in each subsequent Annual Performance Report.

3. Aircraft Movements

Not to accept more than 48,000 Air Traffic Movements in any period of twelve months at the Aerodrome and shall include a report regarding compliance with this obligation in each Annual Performance Report and agreed actions for improvements if any in each Annual Performance Report.

4. Aircraft Types

To accept at the Aerodrome in respect of jet aircraft only Air Traffic Movements that comply with the certificate limits, as laid down in Chapter 3 of Annex 16, of the standards adopted by the International Civil Aviation Organisation Council and which are not Marginally Compliant Aircraft and shall include a report regarding compliance with this obligation in each Annual Performance Report and agreed actions for improvements if any in each Annual Performance Report.

5. Approaches

5.1 To maintain a bias in favour of approaches and climb outs by Aircraft over Belfast Lough

5.2 To use all reasonable endeavours to maximise the use by Aircraft of approaches and climb-outs over Belfast Lough and shall include a report regarding compliance with this obligation and the agreed actions for improvements (if any) in each Annual Performance Report

6. Noise Management

6.1 Noise Contour

In this sub-paragraph:-

' $L_{Aeq,T}$ ' means the notional equivalent continuous A-weighted sound pressure level over the time period, T, which contains the same sound energy as the actual (fluctuating) sound over the same period

$L_{Aeq,16h}$  is the  $L_{Aeq,T}$  for the period 0700 – 2300 local time.

'Noise Classification' means the noise level band in EPNdB, for take-off or landing, as the case may be, for the aircraft in question, as defined in Annex A to this Agreement;

'Quota' means the sum of the Quota Counts of all aircraft save for Diverted Aircraft taking off from or landing at the Aerodrome during the Quota Period;

'Quota Count' means the amount of the quota assigned to one take-off or to one landing by an aircraft based on the Noise Classification as specified in paragraphs 6.4 to 6.5 below;

'Quota Period' means the period from 16<sup>th</sup> June to 15<sup>th</sup> September in any year.

6.2 To maintain a noise control monitoring system in accordance with the following requirements:-

6.2.1 Noise contours shall be produced annually showing the noise exposure on an average summer day between 16<sup>th</sup> June and 15<sup>th</sup> September inclusive in terms of the  $L_{Aeq, 16h}$  noise indicator. Contours will be prepared at a range of values in accordance with government policy for this period, and including at 57, 60 and 63 dB.

6.2.2 The noise contours shall be produced using the latest validated version (currently Version 7.0d) of the Federal Aviation Administration (FAA) Integrated Noise Model (INM) model or any other model agreed with the Department

6.2.3 Noise levels shall be measured at the airport noise monitors and used to validate the noise contours.

6.2.4 The contours produced in accordance with paragraph 6.2.1 above shall be generated from the data associated with all Air Traffic Movements occurring during the period from 16<sup>th</sup> June to 15<sup>th</sup> September inclusive in any year.

6.2.5 The contours produced in accordance with paragraph 6.2.1 above shall include their graphical representation, magnitude of their areas, and the population and number of dwellings within them.

*Limit on noise control area*

6.3 The area enclosed by the 57 dB  $L_{Aeq, 16h}$  contour when produced in accordance with paragraphs 6.2.1-6.2.4 above shall not exceed 5.2 square kilometres.

6.4 In this sub-paragraph Aircraft taking off or landing at the Aerodrome are described as follows:-

- (a) Exempt aircraft;
- (b) Aircraft having a quota count of 0.125;
- (c) Aircraft having a quota count of 0.25;
- (d) Aircraft having a quota count of 0.5;
- (e) Aircraft having a quota count of 1;
- (f) Aircraft having a quota count of 2;
- (g) Aircraft having a quota count of 4

Exempt aircraft for the purposes of paragraph 6.4(a) above are those aircraft which on the basis of their noise data are classified at less than 81.0 EPNdB. The provisions of paragraphs 6.5 and 6.6 shall not apply to the taking off or landing of such aircraft

6.5 Subject to paragraph 6.4 the Quota Count of an aircraft on taking off or landing shall be calculated on the basis of the Noise Classification for that aircraft on take-off or landing as appropriate as follows:-

EPNdB	Quota Count
81.0 - 83.9	0.125
84.0 - 86.9	0.25
87 - 89.9	0.5
90 - 92.9	1
93 - 95.9	2
96 - 98.9	4

6.6 In any Quota Period, the Quota shall not exceed 4,665.

#### *Noise Monitoring*

6.7 Annually on 31<sup>st</sup> March as part of the Annual Performance Report submit to the Department the following information demonstrating compliance with the relevant obligations in this Agreement for analysis by the Department:-

6.7.1 Noise exposure contours as set out in paragraphs 6.2 above for the following cases:-

6.7.1.1 The previous year based on actual ATM data (year x-1);

6.7.1.2 Forecast contours for the current year (year x) and the following year (year x +1) based on predicted ATM data; and

6.7.1.3 A composite graphical figure superimposing contours for year x-1, year x and year x+1.

6.7.2 A comparison of the area within the 57 dB  $L_{Aeq,16h}$  contours for the cases described at paragraph 6.7.1 above with the area specified at paragraph 6.3 above.

6.7.3 The total number of Air Traffic Movements by aircraft type and actual modal split (for year x-1) and the assumed modal split (for years x and x+1) for the cases described in paragraph 6.7.1 above.

6.7.4 The number of monthly and annual Air Traffic Movements and a comparison against 48,000 in any period of twelve months.

6.7.6 The Quota for year x-1 and a comparison against 4,665.

6.7.7. A record of any movements by aircraft types not permitted to use the Aerodrome in year x-1 in accordance with paragraph 4.

6.7.8 A record of the use by Aircraft of approaches and climb-outs over Belfast Lough in year x-1

6.7.9 For the year x-1 a record of Air Traffic Movements within the Extended Hours and fines administered by the Company in year x-1.

6.7.10 A log of engine ground runs including time and duration for year x-1.

6.7.11 A summary of noise complaints received by the Company, the responses given and the actions taken for year x-1.

6.7.12 A review of the degree of adherence to any published noise abatement procedures in operation at the Aerodrome.

6.7.13 Information to verify the accuracy and consistency of the operation of the integrated noise and track keeping system.

6.7.14 An evaluation of the data reported, including a description of any trends and the identification of any relevant features of the Aerodrome operation which may have affected the results.

6.7.15 Where the results of the comparison described at paragraph 6.7.2 above show that the area within the 57 dB,  $L_{Aeq,16h}$  of 4.68 square kilometres (being 90% of the area specified in paragraph 6.3 above) was exceeded in year x-1 or is likely to be exceeded in year x or year x+1, the Company shall submit to the Department proposed actions on or before 31<sup>st</sup> March in year x and promptly implement agreed actions to avoid exceeding the control contour area and to ensure compliance with sub-clause 6.3 in year x and shall include the agreed actions to be promptly implemented in year x together with a summary of the outcome of implementation of the agreed actions if any in year x-1 in the subsequent Annual Performance Report.

*Integrated noise and track keeping system*

6.8 To operate and maintain an integrated noise and track keeping system.

*Continuous Descent Approaches*

6.9 To require within 12 months of the date of this Agreement the use of Continuous Descent Approaches at the Aerodrome, subject to the constraints of safety and the operational performance requirements of the individual aircraft and consistent with flight safety and shall provide an up-date on the implementation of and compliance with this obligation by providing data showing the percentage of the total arrivals in year x-1 that implemented Continuous Descent Approaches and agreed actions for improvements (if any) in the Annual Performance Report for year x.

*Departure Noise Limits*

6.10 Within 12 months of the date of this Agreement to introduce a departure noise limit of 83 dB  $L_{ASmax}$  at monitoring terminal MP01 as shown on the attached plan and 87 dB  $L_{ASmax}$  at monitoring terminal MP02 as shown on the attached plan such departure noise limit to be reviewed and agreed between the parties on the fifth anniversary of this Agreement and on every subsequent fifth anniversary thereafter and the departure noise limit will be from the date of review the reviewed noise limit

6.11 To administer a fining mechanism in respect of all aircraft which breach the limits set out at paragraph 6.10 in accordance with the scheme set out in Annex C and shall ensure that all such fines are promptly lodged in full in the Community Fund and shall include details of the number and type of departing aircraft which breached the limits set out in paragraph 6.10 during year x-1 and a written report of the payments into and out of the Community Fund in year x-1 in the year x Annual Performance Report.

#### *Ground Noise*

6.12 To ensure the availability of fixed electrical ground power (FEGP) at all taxi-in/push-out stands, maintain the FEGP in good working order and restore promptly when out of service

6.12.1 Subject to paragraph 6.12.2 below the FEGP supply shall be used by aircraft on the stand in preference to reliance on auxiliary power units.

6.12.2 Diesel ground power units shall only be used at the Aerodrome in the following circumstances:-

6.12.2.1 An aircraft is parked in a non-standard position (into wind/no tow-bar) and the FEGP will not reach the connection point on the aircraft.

6.13.2.2 An aircraft type is not compatible with the FEGP system or has a temporary technical fault preventing the use of FEGP and the aircraft's Auxiliary Power Unit.

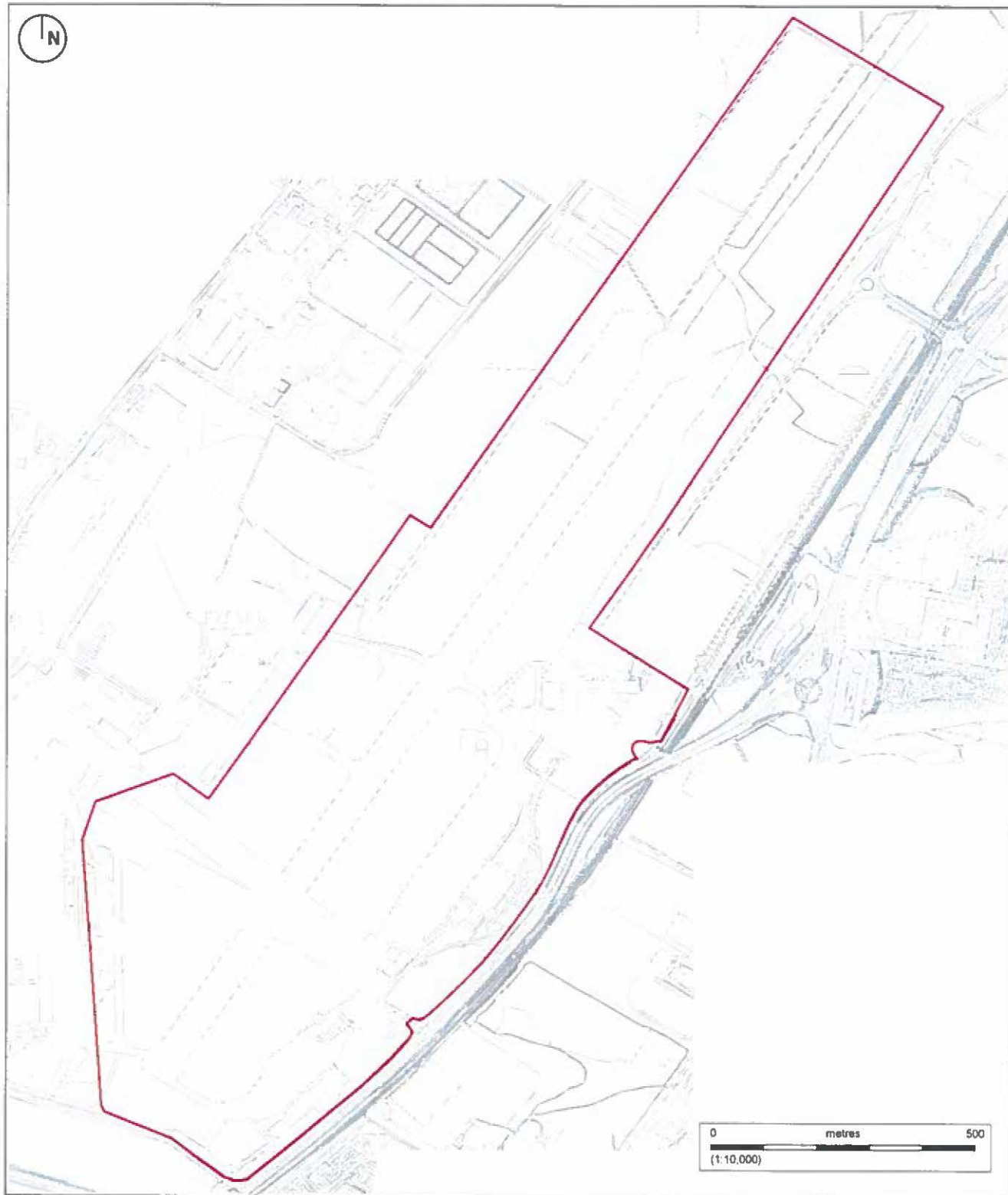
6.12.3 To include a report regarding compliance with this obligation for year x-1 and agreed actions for improvements (if any) in each Annual Performance Report.

#### **7. Sound Insulation**

The Company shall put in place a noise insulation scheme in accordance with the framework agreed with the Department and annexed hereto in Annex D or as varied in the future by the agreement of the Company and the Department and shall include a written report on the operation of this scheme and the Department's required actions for improvements (if any) in each Annual Performance Report.

## PLAN OF AERODROME





Project: GB BCA Proposed Modification  
 Client: Belfast City Airport  
 Title: Location Plan  
 Status: Final

Job No: BCAB2000 Day No: 1000  
 Date: Oct 2013 Revision: -  
 Scale: 1:10000@A4 Author: INT

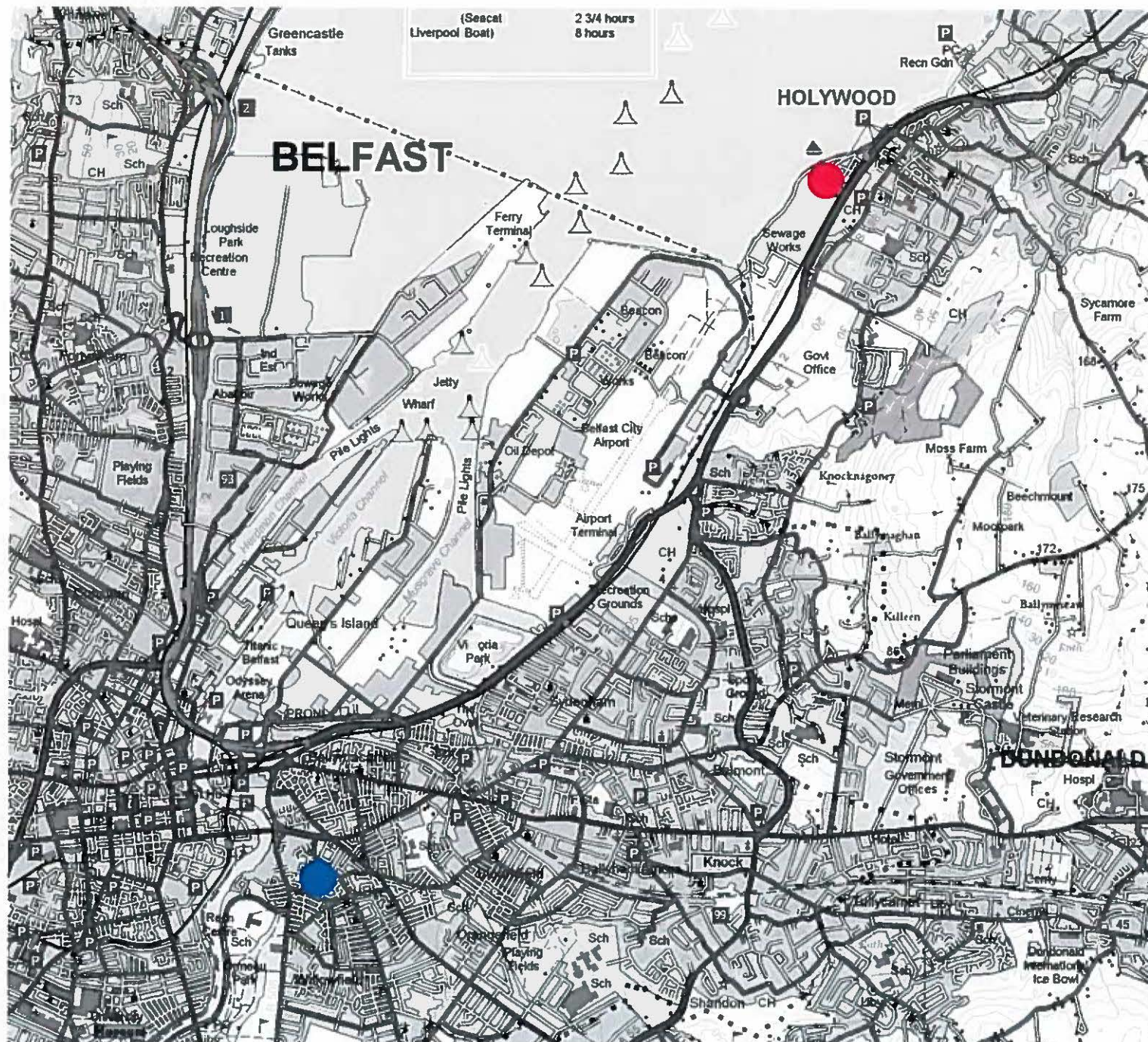
**TURLEYASSOCIATES**  
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PLAN SHOWING MONITORING POINTS MP01 AND MP02





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#### LEGEND

- MP01
- MP02

#### REVISIONS

**Bickerdike  
Allen  
Partners**  
Architecture  
Acoustics  
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Belfast City Airport

#### NMT Locations

DRAWN: DR CHECKED: DC  
DATE: 10/11/2016 SCALE: 1:40000@A4  
FIGURE No:

A9962/01



## ANNEX A

The noise classification for an aircraft on take-off or landing as appropriate means

1.1 for the purposes of landing:

- (a) in the case of an aircraft certificated to the standards of Chapter 2, 3, 4, 5 or 14 of Annex 16 (or the equivalent standards): the certified approach noise level of the aircraft at its maximum certificated landing weight, minus 9 EPNdB;
- (b) in the case of a light propeller-driven aircraft with a maximum take-off weight not exceeding 8,618 kg: the noise classification will be less than 81.0 EPNdB; and
- (c) in the case of any other aircraft not certificated to the standards of Chapter 2, 3, 4, 5, or 14 of Annex 16 (or the equivalent standards): the noise level indicated in relation to that aircraft in the noise data supplied for this purpose to the CAA.

1.2 for the purposes of take-off:

- (a) where the aircraft is certificated to the standards of Chapter 2, 3, 4, 5 or 14 of Annex 16 (or the equivalent standards): half the sum of the flyover and the sideline noise levels in EPNdB as measured at the certification points specified in that Annex during the noise certification of the aircraft at its maximum certificated take-off weight;
- (b) where the aircraft is a light propeller-driven aircraft with a maximum take-off weight not exceeding 8,618 kg: the noise classification will be less than 81.0 EPNdB; and
- (c) in the case of any other aircraft not certificated to the standards of Chapter 2, 3, 4, 5, or 14 of Annex 16 (or the equivalent standards): the noise level indicated in relation to that aircraft in the noise data supplied for this purpose to the CAA.

1.3 In paragraph 1 of this Schedule, 'the equivalent standards' means:

- (a) in the case of Chapter 2 of Annex 16: FAR 36, Stage 2;
- (b) in the case of Chapter 3 of Annex 16: FAR 36, Stage 3;
- (c) in the case of Chapter 4 of Annex 16: FAR 36, Stage 4;
- (d) in the case of Chapter 5 of Annex 16: FAR 36, Stage 2 and 3;
- (e) In the case of Chapter 14 of Annex 16: FAR 36, Stage 5.

## ANNEX B

### Extended Hours Delayed Aircraft payments into Community Fund

<b>Time band</b>	<b>Community Fund contribution per Delayed Aircraft in £</b>
2131-2145	100
2146-2200	125
2201-2215	150
2216-2230	300
2231-2245	400
2246-2300	550
2301-2315	700
2316-2330	800
2331-2345	900
2346-2359	1,000

Should the number of Delayed Aircraft exceed 480 in any calendar year, a further payment of £300 per event for all such events in excess of 480 shall be paid into the Community Fund.

Penalties will be reviewed on the fifth anniversary of this Agreement and on every subsequent fifth anniversary of this Agreement and uplifted to account for the effects of general inflation as outlined below. Such penalties not being less than the penalties payable for the immediately preceding period of 5 years as shall be agreed in accordance with the provisions for review set out below and such reviewed penalties to be paid in the same manner as the penalties hereby stated.

$$\text{Reviewed contribution} = \text{£[contribution]} \times \frac{\text{Current Figure}}{\text{Base Figure}}$$

#### Definitions:-

Base Figure means the Index Figure published in respect of the month two months before the date of this Agreement;

Current Figure means the Index Figure published in respect of the month two months before the relevant anniversary Date;

General Index means the General Index of Retail Prices (all items) (or any identical index under a different title) officially published from time to time by the Office for National Statistics or any other government department ministry or other body upon which the duties in connection with such index may have devolved; and

Index Figure means the figure published at the relevant time as the General Index.

## ANNEX C

### Departure Noise Limit payments into Community Fund

<b>Excess over Departure Noise Limit dBLASmax</b>	<b>Community Fund Contribution per aircraft in £</b>
No greater than 3 dB(A)	500
Greater than 3 dB(A)	1,000

Penalties will be reviewed on the fifth anniversary of this Agreement and on every subsequent fifth anniversary of this Agreement and uplifted to account for the effects of general inflation as outlined below. Such penalties not being less than the penalties payable for the immediately preceding period of 5 years as shall be agreed in accordance with the provisions for review set out below and such reviewed penalties to be paid in the same manner as the penalties hereby stated.

$$\text{Reviewed contribution} = \text{£[contribution]} \times \frac{\text{Current Figure}}{\text{Base Figure}}$$

#### Definitions:-

Base Figure means the Index Figure published in respect of the month two months before the date of this Agreement;

Current Figure means the Index Figure published in respect of the month two months before the relevant anniversary Date;

General Index means the General Index of Retail Prices (all items) (or any identical index under a different title) officially published from time to time by the Office for National Statistics or any other government department ministry or other body upon which the duties in connection with such index may have devolved; and

Index Figure means the figure published at the relevant time as the General Index.

## ANNEX D

### Noise insulation scheme

#### Section 1 – Residential Properties

##### Preamble

Noise generated by aircraft arriving into and departing from George Best Belfast City Airport ('GBBCA') can have an impact on neighbouring communities. Mindful of this, the Company has a range of noise management measures in place designed to prevent and reduce noise which are set out in its current Noise Action Plan (2013-18)<sup>1</sup>.

As part of this Action Plan, the Company has made a commitment to the Department to implement a noise insulation scheme for residential dwellings should they be affected by a certain level of aircraft noise from flights operating at GBBCA. This level is currently the 63 dB LAeq, 16hr noise contour<sup>2</sup> as recommended by UK Government guidance set out in the Aviation Policy Framework<sup>3</sup>. At present, there are no residential dwellings affected by this level of noise due to flights operating at GBBCA. However, depending on the growth of air traffic at GBBCA, residential dwellings may be affected in the future.

Sound insulation is a common measure adopted by airports to reduce the impact of aircraft noise on residential dwellings, in particular, through the provision of soundproof glazing for windows. This is because it is generally considered that the greatest sound transmission, particularly for conventional brick buildings, occurs through the windows<sup>4</sup>.

In line with this commitment, the Company has carried out a review of sound insulation schemes at other UK airports which has included a desktop review and a number of airport visits. GBBCA has also engaged Bickerdike Allen Partners ('BAP') to provide acoustic consultancy services to assist with

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<sup>1</sup> George Best Belfast City Airport, 2013. *Environmental Noise Directive - Round Two - Noise Action Plan 2013-2018*, [online] Available at: <http://www.belfastcityairport.com/Images/GBBCA-Final-Noise-Action-Plan-2013-2018.aspx> [Accessed 14 January 2015]

<sup>2</sup> Noise contours are lines on a map which join areas that are exposed to the same noise levels averaged over a given period of time. Noise contours are prepared using actual aircraft movements (usually for a 92-day period between 16<sup>th</sup> June and 15<sup>th</sup> September as this is assumed to represent the worst case for airport traffic owing to summer holidays) during the 16 hour daytime period (0700-23:00). Noise contours are generated using an approved computer modelling program, the Integrated Noise Model (INM), which contains predicted noise values for the relevant aircraft types. These predicted noise values are validated using actual noise data measured by the Airport's noise monitoring system.

<sup>3</sup> Department for Transport (DfT), 2013. *Aviation Policy Framework*, [online] Available at: <https://www.gov.uk/government/publications/aviation-policy-framework> [Accessed 14 January 2015]

<sup>4</sup> The Civil Aviation Authority (CAA), 2014. *CAP 1165 Managing Aviation Noise*, [online] Available at: <http://www.caa.co.uk/docs/33/CAP%201165%20Managing%20Aviation%20Noise%202.pdf> [Accessed 18 November 2014]

the development of a proposed future scheme at GBBCA. This document presents a framework outlining the proposed scheme.

### **Threshold level**

The proposed threshold for determining eligibility is 63 dB LAeq, 16hr based on the summer 92-day period (the '63 dB contour'). This is to be consistent with the aforementioned aviation policy guidance, most other UK airport schemes and the Civil Aviation Authority's recently published recommendations to offer a benefit to those most seriously affected by noise within the document CAP 1165 Managing Aviation Noise<sup>5</sup>.

### **Technical specification/sound insulation works**

The Company will offer eligible residential dwellings funding for the choice of:

- High acoustic performance replacement double glazing
- Secondary glazing
- Acoustic ventilation units (mandatory)
- Venetian blinds to be fitted for secondary glazing only (excluding north facing windows)
- Loft insulation

### **Value of grant**

Based on current industry practice, the Company will make available a grant to be paid to owners of eligible residential dwellings for the above sound insulation works up to the value of £3,000. It is proposed that 100% funding will be provided up to this limit. The Company will review this financial contribution every five years to take account of any significant changes in industry practice and/or inflation.

### **Eligible rooms**

The Company confirms that noise sensitive habitable rooms, i.e. living rooms, dining rooms, kitchen-diners and bedrooms will be eligible for treatment.

### **Residential dwelling identification**

The Company will prepare annually the 63 dB contour on 31 March based on a forecast for the current year (year x) and a forecast for the following year (year x+1). In doing so, the Company will identify if any residential dwellings are likely to fall within the 63 dB contour in advance of actually

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<sup>5</sup> *Ibid*



reaching the threshold. When a residential dwelling has reached the threshold will be identified when the 63 dB contour based on forecast data from the current period (year x) is prepared on 31 March

Once the threshold has been triggered, the Company will immediately identify the residential dwellings affected and, if necessary, group dwellings into a number of phases for implementation of the scheme, commencing with the dwellings most affected.

### **Restrictions/flexibility**

The Company proposes that the scheme should only be offered to existing residential dwellings (as built or granted planning consent at 1 November 2014). Furthermore, any modification made to an existing dwelling (e.g. an extension) after this date should not be considered.

The scheme will be restricted to conventional brick/block construction. Interior doors, interior windows and conservatories are not included in the scheme. Secondary glazing of exterior doors will not be included.

In the case of listed buildings, all relevant consents must be obtained by the homeowner at their expense before any payment is made or works are carried out.

The scheme will be limited to one grant for sound insulation works per residential dwelling. Once a homeowner of a residential dwelling is notified of eligibility under the scheme, the grant will be immediately available for take up for a period of 5 years from notification. The airport will ensure hand delivery or recorded delivery of yearly letters to the eligible dwellings to advise of the scheme.

The scheme will not be available to cover sound insulation works already carried out by the homeowner.

### **Health & Safety**

Mandatory requirements (e.g. regarding window specification or compulsory ventilation units) set out in the relevant regulations (including, but not limited to, current building and gas regulations and the noise insulation regulations) must be adhered to by the contractor when carrying out the sound insulation works. Following the sound insulation works being carried out, any future requirements resulting from a change to the building, gas appliance or the aforementioned regulations shall be the responsibility of the homeowner.

### **Administration**

The Company will take one of the following approaches in administration of the scheme:

1. following a tender process, appoint a single or multiple contractor(s) with approved products to carry out the treatment works. However, the contract would be drawn up between the home owner (as "the client") and the contractor directly which would mean that the contractor would be liable for making good any defects occurring during the warranty period (to be agreed). This approach could give the Company better control over the quality of the scheme and the relationship between the home owner and the contractor
2. develop a list of approved products and specification but allow the home owner to source their own contractor to carry out the treatment works. This is the approach recommended in CAP 1165 to allow market forces to drive down overall costs. The works could be subject to pre-approval by the Company and a follow-up inspection to confirm that they have been completed satisfactorily before payment is made to the home owner / contractor. Potential issues with this approach, however, are: inconsistent quality of products; aggressive selling techniques; and price fixing. Should they occur, these issues could have a negative impact on the Airport's reputation.

The Company will give further consideration before determining its preferred approach following consultation with the Forum and the Department.

### **Publicity**

The Company confirms that once eligible residential dwellings are identified as falling within the threshold, the scheme be publicised annually through the Airport's various communication channels including its website, social media, at least one local newspaper and one regional newspaper and the Airport Forum, and via direct mail/information leaflets to home owners.

### **Feedback**

The Company confirms that a system for receiving feedback shall be developed to ascertain home owners' level of satisfaction with the scheme. This could take the form of a follow-up questionnaire issued to the home owner after a certain time period.

## **Section 2 – Noise sensitive properties**

### **Preamble**

In line with the approach for developing the draft Noise Insulation Scheme framework for residential properties, the Company has engaged Bickerdike Allen Partners ('BAP') to assist with the development of this proposed scheme for noise sensitive properties.

### **Threshold level**

The proposed threshold for determining eligibility is 63 dB LAeq, 16hr based on the summer 92-day period (the '63 dB contour').

### **Eligible properties**

The Company confirms that schools, colleges, hospitals, and hospices will be eligible.

### **Noise sensitive properties identification**

The Company will prepare annually the 63 dB contour on 31 March based on a forecast for the current year (year x) and a forecast for the following year (year x+1). In doing so, the Company will be able to identify if any noise sensitive properties are likely to fall within the 63 dB contour in advance of actually reaching the threshold. As to when a noise sensitive property has reached the threshold, will be identified when the 63 dB contour based on forecast data from the current period (year x) is prepared on 31 March.

Once the threshold has been triggered, the Company will immediately identify the noise sensitive properties affected and notify the property owner within three months of identification and request permission from the property owner to undertake an inspection of the property.

### **Technical specification**

Noise sensitive properties will be assessed on a case by case basis. The works required will vary substantially and the property may have already been constructed to a defined acoustic standard due to planning and/or Building Regulations requirements. As such, the Company will take the following approach:

- Carry out acoustic measurements at the existing property;
- Carry out a review of any Planning and/or Building Regulations requirements which will have influenced the sound insulation performance of the property;
- Establish recommended guidelines for a reasonable standard of sound insulation based on standards applicable to the property, e.g. BB93<sup>6</sup>, HTM 08-01<sup>7</sup>, BS8233<sup>8</sup>;
- Within nine months of being granted permission for the property inspection, present a package of appropriate and reasonably practicable improvement measures such as window/door improvements to the Department for agreement.

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<sup>6</sup> Building Bulletin 93: Acoustic design of schools: performance standards V17 3/02/15. These performance standards apply for new-schools to comply with the requirements of the Building Regulations (Northern Ireland) 2012 Technical Booklet G Resistance to the passage of sound October 2012.

<sup>7</sup> Health Technical Memorandum 08-01 Acoustics.

<sup>8</sup> BS 8233:2014 Guidance on sound insulation and noise reduction for buildings.

## **Restrictions/flexibility**

The Company proposes that the scheme should only be offered to existing noise sensitive properties (as built or granted planning consent for use as an eligible noise sensitive property) on or before 1 November 2014. In addition, if an existing property has changed use to be categorised as a noise sensitive property, this change of use cannot have occurred after 1 November 2014. Furthermore, any modification made to an existing noise sensitive property (e.g. an extension) after 1 November 2014 should not be considered.

In the case of listed properties, all relevant consents must be obtained by the property owner at their expense before any payment is made or works are carried out.

The scheme will be limited to one grant for sound insulation works per noise sensitive property. Once a noise sensitive property is identified as eligible under the scheme the grant will be immediately available for take up for a period of five years after notification and the airport will immediately notify the property owner in writing by hand delivery or recorded delivery post to the appropriate individual within the property owner organisation including the individual the Company had been in correspondence with during the inspection.

The scheme will not be available to cover sound insulation works already carried out to the property.

## **Health & Safety**

Mandatory requirements (e.g. regarding window specification or compulsory ventilation units) set out in the relevant regulations (including, but not limited to, current building and gas regulations and the noise insulation regulations) must be adhered to by the contractor when carrying out the sound insulation works. Following the sound insulation works being carried out, any future requirements resulting from a change to the property, gas appliance or the aforementioned regulations shall be the responsibility of the property owner.

## **Administration**

The Company will take one of the following approaches in administration of the scheme:

1. following a tender process, appoint a single or multiple contractor(s) to carry out the treatment works. However, the contract would be drawn up between the property owner (known as "the client") and the contractor directly which would mean that the contractor would be liable for making good any defects occurring during the warranty period (to be agreed).
2. allow the property owner to source their own contractor to carry out the treatment works as agreed with the Company. The works would be subject to a follow-up inspection to confirm

that they have been completed satisfactorily before payment is made to the property owner / contractor.

The Company will give further consideration before determining its preferred approach following consultation with the Airport Forum and the Department.

## **APPENDIX 3    EXTRACTS OF NOISE REPORT REF. 14/1015/DOC APPROVED 2 MARCH 2015**

### **3.1 Elements of Luton's Overall Noise Management Pursuant to Condition 12**

*The Airport has for many years produced on an annual basis, the conventional summer 92 day noise contours for daytime and night-time. Night-time noise contours have also been produced on a quarterly basis and the Airport will continue to produce this information but supplement it as detailed in Section 3.2.*

### **3.2 Noise Contouring**

*In light of planning condition 12 Luton Airport will provide on the 1st December of each calendar year, the information listed below.*

- *L<sub>Aeq</sub>,16h noise exposure contours for an average summers day for the 16 hour period (07.00 to 23.00 local time, equivalent to 06.00 to 22.00 GMT in the summer period) 14 A9501-R04-JGC-ZP 4 the December 2014 17 commencing at 57 dB(A) and showing increasing values in 3 dB(A) steps for the following cases:*
  - (a) The current year based on actual ATM data; (b) The following year based on predicted ATM data.*
  - *L<sub>Aeq</sub>,8h noise exposure contours for an average summers night for the 8 hour period (23.00 to 07.00 local time, equivalent to 22.00 to 06.00 GMT in the summer period) commencing at 48 dB(A) and showing increasing values in 3 dB(A) steps for the following cases: (a) The current year based on actual ATM data;*
    - (b) The following year based on predicted ATM data.*
- *For each of the cases described above, a comparison of the area enclosed within the 57 dB L<sub>Aeq</sub>,16h daytime contours with the value of 19.4 sq km respectively and a comparison of the area within the 48 dB L<sub>Aeq</sub>,8h night time contours with the value of 37.2 sq km.*
- *An evaluation of the results, including a description of any trends and the identification of any relevant features which have affected the results.*
- *The above contours will be calculated using the Federal Aviation Authority Integrated Noise Model version 7.0d (or may be updated or amended);*
- *In determining the model split for the average day or night, the actual percentage of westerly and easterly operations for the current summer period will be used, and the rolling five year average will be assumed for the forecast following year.*

*The above information will be contained in a report to be submitted to the Local Planning Authority each year, detailing the forecast aircraft movements, consequential noise contours, and noise quota usage for the forthcoming calendar year. The movements and contours relate to the forecast activity in the 92 day summer period, 15th June-16th September for the forthcoming year.*

*The quota usage relates to the annual usage in the forthcoming calendar year. With respect to “Trends” and “relevant features” identified in the annual reports, LLAOL will study any adverse trends or features and seek to establish causes, and what actions need to be taken by operators or LLAOL to avoid repetition. The actions required by operators could address detailed operational decisions which would be resolved at the regular “Flight Ops” Committee meetings. 15 A9501-R04-JGC-ZP 4 the December 2014 18 The issue of these reports to the Local Authority will mean Luton Airport comply with the final paragraph of condition 12, and that it can be confirmed that the first paragraph of condition 12 has also been complied with.*

### **3.3 Noise Contour Area Reduction Methodology (Early 2019)**

*Within five years of commencement of development a report will be submitted to the Local Planning Authority which shall define methods to be used by the airport operator to reduce the area of the noise contours by 2028 for daytime noise to 15.2 km<sup>2</sup> for the area exposed to the 57 dB LAeq,16h, and above and for night-time noise to 31.6 km<sup>2</sup> for the area exposed to the 48 dB LAeq,8h (2300-0700) and above.*

*The contour area reduction measures envisaged currently are the improved operational arrangements arising from the London Airspace Management Programme (LAMP), improved operation arrangements arising from introduction of RNAV departure and arrival procedures for all routes, and the introduction of new quieter aircraft, such as the Airbus A320 NEO, Boeing 737 MAX, Boeing 787 etc. The effectiveness of these measures to achieve the target reduction by 2028 will be addressed in the reviews delineated in Section 2.6 above. The issue of this report will mean Luton Airport comply with the second paragraph of condition 12.*