

**TOWN AND COUNTRY PLANNING ACT 1990, SECTION 73
TOWN AND COUNTRY PLANNING (INQUIRIES PROCEDURE) (ENGLAND)
RULES 2000**

APPLICATION BY LONDON CITY AIRPORT LIMITED

to vary Conditions 2, 8, 12, 17, 23, 25, 26, 35, 42, 43 and 50

attached to planning permission

13/01228/FUL allowed on appeal APP/G5750/W/15/3035673 dated 26th July 2016

LPA REFERENCE NUMBER 23/00059/REF

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Proof of Evidence – Planning

Liam McFadden

November 2023

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1. Introduction

- 1.1. My Name is Liam McFadden and I am the case officer on behalf of the London Borough of Newham for application 22/03045/VAR and the subsequent appeal to which this document relates.
- 1.2. My Qualifications include a BSc in Psychology obtained from Brunel University and an MA in Urban and Regional Planning obtained from Westminster University.
- 1.3. I have worked within Local Authority Planning for approximately 15 years. Within these 15 years I began as a validation officer at the London Borough of Harrow, moving on to work with the Planning Enforcement team before moving on to a Planning Officer whilst completing my MA. I left Harrow in 2015 to join the London Borough of Brent as a Senior Planning Officer, leaving in 2022 to work at the London Legacy Development Corporation for a period of 3 months. I then joined the London Borough of Newham (LBN) as a Principal Planning Officer in August 2022.
- 1.4. I have extensive experience with planning applications of various types and scales including householder extensions, minor applications to large Major applications which are preferable to the Mayor. I have had extensive experience with permitted development rights and defended multiple cases at appeal stage.
- 1.5. This Proof of Evidence will support LBN's decision to refuse permission for the appeal application in order to protect the residential amenity of residents from the negative noise impacts associated with the loss of curfew and other changes which arise from the application, specifically the additional early morning flights. It will be demonstrated that the positive impacts of the development do not outweigh the harm identified.
- 1.6. This Proof of Evidence will be supported by those produced by LBN's expert consultants:
 - **Proof of Evidence – Noise -Rupert Thornely-Taylor - November 2023**
 - **Proof of Evidence: Dr Christopher J Smith - London City Airport Planning Appeal London Borough of Newham November 2023**

2. The Basis on Which the Airport was initially permitted and has been operating

- 2.1. This section is a summary of the planning History of the airport and the restrictions associated with these permissions.
- 2.2. **N/82.104 (Approved May 1985)** – Outline permission granted for London City Airport (or STOLport).

This permission was granted by London Docklands Development Corporation (LDDC) as part of the objective to regenerate the Docklands and bring economic benefits associated with an airport in this area. The permission was restricted to 30,160 Air Transport Movements (ATMs) per year and was primarily used by the de Havilland Dash 7 a quiet, turbo-prop aircraft. The airport was intended as a business focussed airport to support commercial activities, including the development of the nearby Canary Wharf and financial sector. This application was assessed by the London Docklands Development Corporation under the relevant planning policy available at the time.

- 2.3. **LRPG4/G57501/01; LRP219/J9510/017 (Approved September 1991)** – Permission was granted to extend the existing runway. This application introduced the concept of noise factoring. This is a setting out of different noise categories, each having a noise factor associated with it. The permission included a restriction of 36,000 ATMs and 36,000 noise-factored ATMs per year. This application was assessed by the London Docklands Development Corporation under the relevant planning policy available at the time.

- 2.4. **P/97/0826 (Approved July 1998)** – Variation of original permission which allowed a maximum of 73,000 ATMs and 73,000 noise-factored ATMs per year. This application introduced restrictions to operation hours including the limit of 3 ATMs between 06.30-06.59 hours on Monday to Saturday and the restriction of no flights between 12.30 Saturday until 12.30 Sundays (hereafter referred to as 'the curfew'). These restrictions were imposed as it was acknowledged that the increase in ATMs per year would result in additional noise impacts which need to be mitigated against. Conditions were attached to protect residential amenity of neighbouring occupiers during sensitive parts of the day and week. This application was assessed by the London Docklands Development Corporation under the relevant planning policy available at the time.

- 2.5. **07/01510/VAR (Approved July 2009)** – Permission was granted to allow a maximum of 120,000 ATMs per year. Existing noise restrictions remained in place in order to protect residential amenity of neighbouring occupiers during sensitive parts of the day and week. This application was assessed under the London Plan (2008) and Newham Unitary Development Plan (2001)
- 2.6. **13/01228/FUL (Approved July 2016)** – Permission was granted for the expansion to the airport (CADAP1). This application was supported by LBN but the Mayor of London directed LBN to refuse permission. This was subsequently allowed at appeal. As part of this proposal, the curfew remained intact and in addition the maximum number of ATMs per year was reduced from 120,000 to 111,000. Permission was granted on the basis of many mitigation factors including an insulation scheme, noise contour caps, and caps on hourly, daily and weekend, weekly and annual movements. This application was assessed under the NPPF (2012), The London Plan 2011, Newham Core Strategy 2012 and Newham Unitary Development Plan (2001)
- 2.7. To summarise, since the original permission was submitted, LBN has followed an approach whereby the advantages provided by the airport have been fully taken into account within the context where the potential adverse impacts are balanced against it. Noise impacts of the airport have always been a key consideration and have always been weighed against the benefits of the proposal. Each time permission was granted, restrictions on the total number of flights as well as mitigation measures have been taken into consideration. The approach has followed the applicable planning policy, which has been applied consistently and fairly to achieve a balance between the benefits of the airport operation and the adverse effects arising from it. The existence of limited early morning flights and the twenty-four-hour respite period from Saturday lunchtime through until Sunday achieves that balance.

3. Nature of the airport today

- 3.1. The airport currently operated under the restrictions of the CADAP1 permission. This permission is subject to conditions which are summarised below:
- A maximum of 6 movements between 06.30-6.59 Mondays to Saturdays and only 2 between 06.30-06.45.

- A maximum of 100 movements on Saturday, 200 per day on Sundays but not exceeding 280 on any consecutive Saturday and Sunday.
 - No flights permitted between 12.30 Saturday and 12.30 Sunday
 - A limit of 6.5million passengers per annum
 - 111,000 ATMs per year
 - A cap of 45 ATMs per hour
 - A restriction to fix the 57db noise contour to no greater than 9.1km2 with monitoring to demonstrate a reduction in this by 2030.
- 3.2. Complaints relating to the operating of the airport are handled directly via a formal complaints form on the Airport's website and a monthly list of complaints is sent to the Council's Airport Monitoring Officer as well as being reported annually.
- 3.3. Since the granting of the airport the surrounding area has transitioned away from industrial and commercial uses to more mixed use with a large amount of residential development in the local area.
- 3.4. This is expected to continue as evidenced by Policy S3 of the current Local Plan which indicated the aims of the council to create a mixed use urban quarter including the delivery of 8404 new additional homes. This includes via the use of Strategic sites such as Silvertown Quays.

4. Appeal application

- 4.1. The appeal application was submitted in December 2022.
- 4.2. The proposed changes can be broadly summarised as:
- An increase in the limit on passengers from 6.5 million passengers per annum (mppa) to 9 mppa
 - A proposed extension to operating hours on Saturday to allow take-off and landing up until 18:30 and up until 19:30 during British Summer Time for up to 12 arrivals.
 - Changes to the daily limit of flights within the first half-hour (06:30-07:00) from 6 to 9
 - Changes to operational hours of the Terminal (to 20:00 on Saturdays), Ground Running and Aircraft Maintenance (until 18:30) to reflect the proposed extension to flight times.

- Changes to the location of aircraft stands to allow greater flexibility due to increased wingspan of new generation aircraft and alterations to the amount of hardstanding.
 - Changes to the approved plans and documents to reflect the above changes and to incorporate changes to approved documents resulting from the passage of time since the granting of the parent permission.
- 4.3. To achieve the proposed changes, the application seeks to vary Conditions 2 (Approved documents) 8 (Aircraft Maintenance) 12 (Aircraft Stand Location) 17 (Aircraft Take-off and Land Times) 23, 25, 26 (Daily limits) 35 (Temporary Facilities) 42 (Terminal Opening Hours) 43 (Passengers) and 50 (Ground Running) attached to the original permission.
- 4.4. Officers raised concerns that the reduction of the existing curfew would result in a new and material noise impact where none existed before. The loss of the Saturday Curfew would result in Sunday mornings being the sole respite period for nearby residents.
- 4.5. The application was presented to the Strategic Development Committee on 19th July which resolved to refuse permission for the following reasons:
- 1. 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 insignificant 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)*
- 2. A Deed of Variation is required in order for the s106 agreement of the parent permission to apply to this permission to secure and update the obligations necessary to make the application acceptable. In the absence of such an agreement the application would fail to secure benefits, financial contributions including mitigations related to employment, transport, air quality, sustainability and residential amenity.*
- Note to Applicant: This final reason for refusal could be overcome following the submission of an acceptable proposal and the completion of a S.106 legal agreement which address each of the above points.*

- 4.6. During the course of the appeal, reason 2 is expected to fall away as a S106 and conditions are agreed between the party. In the absence of such an agreement the reason for refusal would remain.

5. Planning Policy

- 5.1. The planning policy documents relevant to the assessment of the application are identified in the Statement of Common Ground and include the following as referred to in the Councils evidence

National Planning Policy Framework (MHCLG, September 2023):

Aviation Policy Framework (SoS for Transport, March 2013)

Jet Zero Strategy (Department for Transport July 2022)

Flightpath to the Future (Department for Transport 2022)

Aviation 2050: The Future of UK Aviation (Department for Transport 2022)

Airport National Policy Statement (Department for Transport 2018)

Noise Policy Statement for England (DEFRA, March 2010)

Beyond the Horizon, The Future of UK aviation, Making the Best use of existing runways (Department for Transport 2018)

UK Airspace Policy (Department for Transport 2017)

The London Plan (GLA, March 2021)

GG1 Building strong and inclusive communities

GG2 Making the best use of land

GG3 Creating a healthy city

GG5 Growing a good economy

GG6 Increasing efficiency and resilience

Policy D4 Delivering good design

Policy D5 Inclusive design

Policy D11 Safety, security and resilience to emergency

Policy D13 Agent of change

Policy D14 Noise

Policy E4 Land for industry, logistics and services to support London's economic function

Policy E11 Skills and opportunities for all

Policy G1 Green infrastructure

Policy G5 Urban greening

Policy G6 Biodiversity and access to nature

Policy G7 Trees and woodlands

Policy G9 Geodiversity

Policy SI 1 Improving air quality

Policy SI 2 Minimising greenhouse gas emissions

Policy SI 3 Energy infrastructure

Policy SI 4 Managing heat risk

Policy SI 12 Flood risk management

Policy SI 13 Sustainable drainage

Policy T1 Strategic approach to transport

Policy T2 Healthy Streets

Policy T3 Transport capacity, connectivity and safeguarding

Policy T4 Assessing and mitigating transport impacts

Policy T5 Cycling

Policy T6 Car parking

Policy T7 Deliveries, servicing and construction

Policy T8 Aviation

Policy T9 Funding transport infrastructure through planning

Policy DF1 Delivery of the Plan and Planning Obligations

Policy M1 Monitoring

Newham Local Plan (2018)

S1 Spatial Strategy and Strategic Framework

S3 Royal Docks

SP1 Borough-wide Place-making

SP2 Healthy Neighbourhoods

SP3 Quality Urban Design within Places

SP8 Ensuring Neighbourly Development

SP9 Cumulative Impact

J1 Business and Jobs Growth

J2 Providing for Efficient Use of Employment Land

J3 Skills and Access to Employment

SC1 Environmental Resilience

SC2 Energy and Zero Carbon

SC3 Flood Risk and Drainage

SC4 Biodiversity

SC5 Air Quality

INF1 Strategic Transport

INF2 Sustainable Transport

INF4 Utilities Infrastructure

Draft Local Plan

The Draft Newham Local Plan (Regulation 18) was approved at Cabinet on 6 December 2022 for consultation. Statutory public consultation under regulation

18 commenced on 9 January 2023. The weight which should be accorded to draft policies is guided by paragraph 48 of the National Planning Policy Framework (NPPF) 2023 and paragraph 049 of the Planning Practice Guidance (Local Plans). These state that a new Local Plan may be given weight according to the stage of preparation of the emerging local plan, the extent to which there are unresolved objections to the relevant policies, and the degree of consistency between the relevant policies in the draft plan and the policies in the NPPF. As the draft Local Plan is at an early stage of development and has not yet been through statutory consultation, very limited weight can be placed on the policies in the Draft Local Plan, and the adopted Newham Local Plan 2018 and London Plan 2021 remain the key Development Plan documents used to determine applications.

- 5.2. Since the decision was made, an updated version of the NPPF was published in July 2023. However, this is not considered to alter the assessment or ultimate recommendation.
- 5.3. The Inspector has indicated that the following topics will be covered during the inquiry:
- Socio-Economic Benefits
 - Noise Impacts on residential amenity
 - Carbon/Climate Change with regards to planning policy
- 5.4. With regard to these topics and the reasons for refusal the following policies are most relevant and are set out in detail.
- 5.5. Socio-economic benefits
- 5.6. Paragraph 5 of The Aviation Policy Framework notes that the aviation sector is a major contributor to the economy and the growth for this can be supported within a framework which maintains a balance between the benefits of aviation and its costs, particularly in its contribution to climate change and noise.
- 5.7. Policy T8 of The London Plan states that The Mayor supports the role of the airports serving London in enhancing the city's spatial growth, particularly within Opportunity Areas well connected to the airports by public transport and which can accommodate significant numbers of new homes and jobs.

- 5.8. Policy J1 of the Local Plan states the need to attract investment in growth sectors and support the existing business base, maximising quality employment potential and creating a dynamic business environment by selective protection and development of quality premises and places.
- 5.9. Policy J1 of the Local Plan requires all major development to address convergence objectives through an Employment Strategy that details commitments to work with the Council's Our Newham Work organisation to maximise local employment opportunities, including appropriate lead-in times in relation to training and provision. Development which incorporates employment floorspace on Strategic Industrial Location (SIL) and/or employment hubs are required to submit an Employment Strategy that details;
- phasing of new permanent employment-generating floorspace in such a way that maximises the likelihood of beneficial use considering deployment of temporary uses where appropriate;
 - marketing/demand testing and occupier commitments in relation to the proposed mix of unit type, scale and tenure, recognising the identified shortages and surpluses identified by the Newham ELR Part 2 and subsequent updates; and,
 - commitments to work with the Council's Workplace organisation to maximise local employment opportunities, including appropriate lead-in times in relation to training provision.
- 5.10. Local Plan Policy J3 states that all major developments will be required to help ensure that more Newham residents access work and share in the increasing wealth associated with the expanding local and London-wide economy. More specifically, it states the promotion of local labour agreements to enable Newham residents to develop skills and secure employment arising from the regeneration of the borough. The Local Plan defines this by indicating technical criteria which amongst other criteria note that all major development will be required to help to ensure that more Newham residents access work through seeking to secure that they occupy 35% of all construction phase jobs, and 50% of all post construction (end user) phase jobs typically through a tariff based contribution and an Employment Strategy as per Policy J1, cognisant of proposed construction methods and sectoral specialisms.
- 5.11. Noise impacts on residential amenity

5.12. Paragraph 17 of the APF states:

‘[The Government’s] overall objective on noise is to limit and where possible reduce the number of people in the UK significantly affected by aircraft noise. The document makes clear that the acceptability of growth in aviation depends to a large extent on the industry continuing to tackle its noise impact and confirms that the Government expects the industry at all levels to continue to address noise.’

5.13. Paragraph 3.3 of the APF states that:

‘[The Government] want[s] to strike a fair balance between the negative impacts of noise (on health, amenity (quality of life) and productivity) and the positive economic impacts of flights. As a general principle, the Government therefore expects that future growth in aviation should ensure that benefits are shared between the aviation industry and local communities. This means that the industry must continue to reduce and mitigate noise as airport capacity grows. As noise levels fall with technology improvements the aviation industry should be expected to share the benefits from these improvements’

5.14. Policy D13 of the London Plan states at part C that new noise and other nuisance generating development close to residential and other noise-sensitive uses should put in place measures to mitigate and manage any noise impacts for neighbouring residents and businesses.

5.15. Policy T8 of The London Plan emphasises that the environmental and health impacts of aviation must be fully acknowledged and assessed, particularly in relation to noise and air quality and must take full account of the views of affected communities. Any airport expansion scheme must demonstrate that there is an overriding public interest or no suitable alternative solution with fewer environmental impacts.

5.16. Policy SP2 of the Newham Local Plan seeks to ensure that development contributes to the health and well-being of residents. Policy SP8 also states that developments should avoid unacceptable exposure to odour, dust, noise, disturbance vibration and other amenity or health impacting pollutants.

5.17. Climate Change and Carbon Emissions

5.18. Paragraph 188 of the NPPF states that:

'The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.'

- 5.19. Paragraph 5.82 of the Airports National Policy Statement (ANPS) states:
'Any increase in carbon emissions alone is not a reason to refuse development consent, unless the increase in carbon emissions resulting from the project is so significant that it would have a material impact on the ability of Government to meet its carbon reduction targets, including carbon budgets.'
- 5.20. Policy GG6 of The London Plan sets an objective for London to become a zero-carbon city by 2050. Policy SI 2 states that major development should be net zero-carbon and should include a detailed energy strategy. A minimum on-site carbon reduction of 35% beyond Building Regulations. Development proposals referable to the Mayor should calculate whole life-cycle carbon cycle emissions through a nationally recognised Whole Life-Cycle Carbon Assessment. Policy SI 3 and SI4 emphasise that development should consider energy strategies in addressing climate change and heating.
- 5.21. Policy T8 also emphasises that aviation related development proposals should include mitigation measures that fully meet their external and environmental costs, particularly in respect of climate change. The supporting text for policy T8 also states that emissions from aviation activities on climate change must be compatible with national and international obligations to tackle climate change.
- 5.22. Policy SC2 of the Newham Local Plan supports the above by requiring all development to minimise and reduce carbon emissions and to meet London Plan Zero Carbon targets. It also requires all major development proposals to be accompanied by an Energy Strategy which conforms to the latest GLA guidance.
- 5.23. Also relevant to this topic is the application at Bristol Airport which was granted on appeal (Reference: APP/D0121/W/20/3259234). This was subsequently challenged in court under reference Bristol Airport Action Network Co-ordinating Committee v

Secretary of State for Levelling Up, Housing and Communities [2023] EWHC 171 (Admin).

- 5.24. It was noted at paragraph 82 of the High Court decision that:
- ‘.. aviation emissions, which can occur at any point in an aircraft’s journey to and from Bristol Airport, are of a different character from, for example, carbon emissions that can be addressed by reducing energy demand through good design of buildings in the area of [North Somerset Council]’
- 5.25. At paragraph 93 it was observed:
- ‘...emissions become relevant for the purposes of the development plan if, and only if, they are likely to be such as to have a material impact on the Secretary of State’s ability to meet his obligations under the CCA, including by means of carbon budgets. Since the Panel found this was not the position, and given that ground-based emissions could be addressed in the way described in DL216, this meant that granting permission for the development would not be contrary to the development plan. It also meant that aviation emissions were not otherwise a material consideration pointing to a dismissal of BAL’s appeal.’

6. Assessment of scheme

- 6.1. During the course of the application, several key issues were assessed.

Principle of Development

- 6.2. The principle of development was considered to be appropriate under s73 of the Town and Country planning act. As part of the assessment of the principle of development, the applicant’s Need Case was assessed in conjunction with consultant advice from Dr Chris Smith.
- 6.3. It was acknowledged that the need case would allow for a more efficient use of existing airport infrastructure and that the proposal would act as an incentive to encourage airlines to re-fleet. However, as per the assessment provided by Dr Chris Smith which it is set out fully within The Review of Need Statement (July 2023) it was considered in particular that the anticipated growth of LCA was questionable and was based on some uncertain inputs and further that capacity at other airports would be sufficient to meet regional demand in a more efficient manner.

Socio-economic impacts

- 6.4. In assessing the socio-economic impacts of the proposal it was acknowledged that the airport provides significant socio-economic benefits to the borough. This includes a large amount of employment, use of supply chains and indirect support of nearby businesses and supply chains.
- 6.5. Further to this, economic benefits were secured as part of the CADAP1 permission through s106 obligations. This included advantages such as employment targets and financial contributions.
- 6.6. It should be noted that many of these were linked to passenger numbers and some have not yet been fully realised. For example, employment targets have not been historically met.
- 6.7. The appeal application seeks to increase these contributions, again secured via s106 obligations including further employment targets, financial contributions and the creation of a Local Employment Partnership Board.
- 6.8. Whilst it was concluded that overall the socio-economic benefits of the proposal would be beneficial and long term, it should be noted that as these are linked to passenger numbers, the full benefits will occur over a longer period of time. Given that the benefits proposed under CADAP1 have not yet been reached, it is not certain when or even if they will occur under the proposed changes.
- 6.9. Conversely, the loss of the curfew represents an immediate and negative impact on the amenity of nearby residents, as would the additional morning flights.
- 6.10. Overall, it was concluded that although the economic impacts were positive and long term, they did not outweigh the harm identified.

Design

- 6.11. The proposal gave rise to no objections in design terms.

Air Quality

- 6.12. In the assessment of air quality impacts, it was noted that air emissions from aircraft would increase due to the additional flights that would be permitted. However, other sources of emissions such as from ground vehicles, operational emissions and from public transport would reduce. As such, when assessed as a whole, air quality impacts would not be significant compared to the parent permission.

- 6.13. Concerns were raised regarding a lack of information on Ultra-Fine Particles (UFPs) however this is intended to be addressed via an appropriate condition.

Noise

- 6.14. The main concern with regards to residential amenity surrounded noise impacts and in particular the impacts of the loss of the existing curfew on Saturday afternoons. It was noted that the curfew as it currently exists has been in place since 1999 and this loss would be the most significant change to operations in the airport's history.
- 6.15. As a result of the consultation process over 1700 objections were received from residents and objections were received from the GLA and neighbouring boroughs of Southwark, Lewisham, Redbridge, Havering, Greenwich, Hackney, Waltham Forest and Tower Hamlets.
- 6.16. The applicant's Statement of Community Involvement identified that extending flights to 22.00 on Saturdays was a major concern for residents. The reduction of this to 18.00 was the appellant's response to deal with this. However, it did not address the impacts in the additional six hours.
- 6.17. Additional flights during the first half-hour of weekdays would increase the number of flights during the most sensitive times of the day and week.
- 6.18. The reduction of the curfew is considered to result in a materially new and harmful impact on the residential amenity of neighbouring occupiers. Significant weight was given to this respite period and the benefits residents receive from it. This is supported by the evidence provided by Rupert Taylor which notes that a number of residents would experience a notable increase in noise impacts.
- 6.19. Although mitigation measures are proposed by the applicant, such as sound insulation schemes, these do not mitigate the impacts on outdoor spaces such as gardens, balconies or public parks. Additionally, sound insulation loses effectiveness during summer months when residents require open windows for ventilation.
- 6.20. The reduction of the curfew on Saturday up to 18.30 or 19.30 BST would result effectively in the late Saturday and Sunday morning period as being the only remaining respite period at the weekend. Concerns were raised, though not as part

of this application, that if the curfew on Saturday is lost and permission is granted it would be difficult to argue that the Sunday morning curfew cannot likewise be removed via a later planning application, resulting in a complete loss of the weekend curfew.

- 6.21. The appellant considers that the restriction of newer 'quieter' aircraft in the additional timeslots would incentivise a faster re-fleeting by airlines. Whilst there is some disagreement on whether airlines will re-fleet without this incentive, the fact remains that quieter aircraft still result in noise impacts which are negative and harmful to residential amenity. These impacts would take place in a period where flights do not take place at present and therefore result in a new and material harm.
- 6.22. Overall it was considered that the identified harm would not be outweighed or mitigated against by the benefits of the scheme.

Transport and Travel

- 6.23. In the assessment of the Transport and Travel impacts to the airport, the assessment was carried out in conjunction with input from Transport for London.
- 6.24. Transport and TfL officers both noted that the proposal would have potential for a substantial impact in terms of additional passengers travelling to the airport via public and private transport. However, it was agreed that these could be addressed via s106 obligations which have been secured during the appeal process.

Energy Strategy, Carbon Emissions and Climate Change

- 6.25. It was noted from the submitted details that the proposal would result in an increase in Greenhouse Gas emissions due to the additional flights. However, case law from Bristol Airport determined that carbon emission from aircraft cannot be dealt with at a local level and are a matter for government to control via other methods such as Carbon budgets etc.
- 6.26. As such, carbon emissions from aircraft are not considered a material consideration for this application and did not form a reason for refusal. However, it is acknowledged that this has been determined as a topic for discussion at the Inquiry.
- 6.27. As per the evidence provided by Dr Chris Smith, it is considered that the demand for the London regional area can be accommodated at other airports in the area. This

would also have the added benefit of allowing passengers to use larger aircraft which would reduce the amount of emissions per passenger.

7. Overall planning balance

- 7.1. The application if approved offers a number of positive benefits. In accordance with the Aviation Policy Framework (APF), LBN has considered that these benefits are long-term and would weigh in favour of the application.
- 7.2. It would have the potential to act as an incentive for airlines to re-fleet to newer generation aircraft which bring benefits in terms of noise and environmental impacts, compared with the current fleet although adverse impacts would still arise with the new generation aircraft.
- 7.3. It would bring with it new jobs for Newham residents and socio-economic impacts to supply chains and in the form of financial contributions.
- 7.4. The formation of a Local Employment Partnership Board would be positive and help enable these aforementioned benefits.
- 7.5. The overall socio-economic benefits are considered to be beneficial and long-term, although the linkage between these benefits and passenger numbers indicates no certainty as to when they would arise in practice.
- 7.6. A number of mitigation measures such as the sound insulation scheme and financial contribution towards the improvements of public spaces would be secured as part of the proposal. Although the improvements to public spaces will not address directly the noise impacts from flights during the current Saturday curfew period.
- 7.7. Additionally, a number of mitigation measures are proposed to address public transport impacts. Which, as agreed with TfL would help minimise negative impacts of the development on the local transport network.
- 7.8. However, LBN considers that too much weight has been given to the reported socio-economic benefits of the proposal. As noted above, the ANPF supports aviation growth which strikes a fair balance between positive economic impacts and the negative environmental impacts such as on noise and amenity.

- 7.9. Insufficient weight has been given to the curfew and respite period experienced by residents for over 20 years and the limited number of morning flights. The loss of the curfew on a Saturday, when residents can reasonably be expected to be outdoors enjoying some relaxation, would remove the only full afternoon in the week that residents experience a respite period.
- 7.10. Whilst the above mitigations measures are noted, mitigations are there to help minimise the negative impacts of the development that would only occur should the development be given permission. As such, they can only be given a neutral weight in the planning balance.
- 7.11. In any case, as discussed in the officer's report, the noise mitigation measures would be insufficient to fully address impacts on open spaces such as gardens, balconies or public spaces. As note by many objections, this is also ineffective in summer months when residents need to open windows in order to receive sufficient ventilation.
- 7.12. No evidence has been submitted by the applicant to demonstrate that the curfew would address noise impact concerns raised by the large number of objections from residents, the GLA and neighbouring London boroughs.
- 7.13. The benefits of quieter aircraft are effectively undone by the introduction of new noise impacts during a sensitive time period where there are currently no such impacts. Despite being quieter, these still create loud impacts for nearby residents. Such an impact amounts to a new noise generating impact as identified in London Plan Policy D13.
- 7.14. Overall, the loss of residential amenity would amount to substantial harm when assessed in the context of Local Plan. The proposed mitigation measures are insufficient to avoid these impacts and the socio-economic benefits are not considered to outweigh this harm. This is contrary to policies SP2 and SP8 of the Local Plan
- 7.15. The impact on air quality, whilst not a reason for refusal is not an improvement over the existing permission and as such weighs neutral in the planning balance.
- 7.16. As noted above, based on the above case law carbon emissions from aircraft are not assessed in the planning balance. However, it should be noted therefore that any

carbon emission improvements secured via the newer generation aircraft would therefore not weigh in favour of the application.

7.17. It is noted that the Inspector is minded to include carbon emissions in relation to planning policy within the list of topics to discuss during the Inquiry.

7.18. Whilst the above remains the position for LBN with regards to climate change. LBN would note that the proposal does result in additional emissions which could be more efficiently dealt with via other London airports.

8. Conclusions

8.1. The loss of the existing respite period, along with the additional early morning flights would be substantially harmful to residential amenity and the benefits of the proposal do not outweigh the substantial harm to residential amenity and the proposed mitigations are insufficient to fully avoid the negative impacts of the proposal.

8.2. Overall, insufficient weight has been given to the respite period and too much weight given to the proposed economic benefits.

8.3. The proposal is unacceptable and the reason for refusal given by LBN should be upheld.

9. Conditions and Obligations

9.1. Conditions and obligations are currently in the process of being finalised in conjunction with the appellant.

9.2. At the time of writing, the s106 has been finalised and is in the process of being signed by all parties.

9.3. LBN has worked with the appellant to finalise a list of suggested conditions. The majority are now finalised with final discussions on wording taking place. An agreement is expected in due course.

10. Statement of Truth

10.1. This proof of evidence includes all facts which I regard as being relevant to the opinions that have been expressed and the Inquiry's attention has been drawn to any

matter which would affect the validity of that opinion. I believe that the facts that I have stated in this proof of evidence are true and the opinions expressed are correct; and I understand my duty to the Inquiry and to help it with matters within my expertise and I have complied with that duty.

07/11/2023

X Liam McFadden

Liam McFadden

Principal Planner

Signed by: Liam Mcfadden