

STATEMENT OF CASE

Appeal against the refusal of Section 73 application 22/03045/VAR:

seeking to vary Conditions 2 (Approved documents) 8 (Aircraft Maintenance) 12 (Aircraft Take-off and Land Times) 23, 25, 26 (Daily limits) 35 (Temporary Facilities) 42 (Terminal Opening Hours) 43 (Passengers) and 50 (Ground Running) to allow up to 9 million passengers per annum (currently limited to 6.5 million) arrivals and departures on Saturdays until 18.30 with up to 12 arrivals for a further hour during British Summer Time (currently allowed until 12.30), modifications to daily, weekend and other limits on flights and minor design changes, including to the forecourt and airfield layout attached to planning permission 13/01228/FUL allowed on appeal
APP/G5750/W/15/3035673 dated 26th July 2016

1 INTRODUCTION

- 1.1 This document comprises London City Airport Limited's ("LCY" or the "Airport") Statement of Case for an Appeal against the refusal of application reference 22/03045/VAR by the London Borough of Newham ('LBN').
- 1.2 On 19 December 2022, the Airport submitted the following application ("S73 Application") which was registered as valid as of this date:

"Section 73 application to vary Conditions 2 (Approved documents) 8 (Aircraft Maintenance) 12 (Aircraft Stand Location) 17 (Aircraft Take-off and Land Times) 23, 25, 26 (Daily limits) 35 (Temporary Facilities) 42 (Terminal Opening Hours) 43 (Passengers) and 50 (Ground Running) to allow up to 9 million passengers per annum (currently limited to 6.5 million) arrivals and departures on Saturdays until 18.30 with up to 12 arrivals for a further hour during British Summer Time (currently allowed until 12.30), modifications to daily, weekend and other limits on flights and minor design changes, including to the forecourt and airfield layout attached to planning permission 13/01228/FUL allowed on appeal APP/G5750/W/15/3035673 dated 26th July 2016 which granted planning permission for; "Works to demolish existing buildings and structures and provide additional infrastructure and passenger facilities at London City Airport"

- 1.3 The Council's stated deadline for the receipt of consultation responses was 19 March 2023.
- 1.4 On 27 February 2023, some three weeks before the end of the consultation period, LBN's Full Council set out its opposition to the scheme and resolved as follows:

"For the Lead Member to write to the Secretary of State for Transport, Rt Hon Mark Harper and lobby the government to reject any application to extend Saturday flights at London City Airport."

- 1.5 The statutory period for determination of the S73 application passed on 10 April 2023 (16 weeks following the validation of the S73 Application). At a special meeting of LBN's Strategic Development Committee on 10 July 2023, LBN resolved to refuse the S73 Application by reason of additional morning and Saturday flights causing significant harm to the residential amenity of nearby residents, contrary to policies D13 and T8 of the London Plan (2021) and policies SP2 and SP8 of the Newham Local Plan (2018). This appeal has been made against LBN's decision to refuse permission on 24 July 2023. The Officer Report or 'OR' which informed LBN's decision is referenced throughout this document.
- 1.6 This document comprises the Airport's Statement of Case. It explains why the Airport considers that permission should be granted for the S73 Application taking into account the policies in the development plan and other material considerations including consultations responses received. This document also includes a summary description of the existing airport site, a summary of the proposals and an overview of the relevant background to the proposals. A draft Statement of Common Ground has also been prepared.

2 CONTEXT

- 2.1 A full description of the Airport and relevant background are provided in the Draft Statement of Common Ground (**Appendix 1**).

The Airport and its surroundings

- 2.2 LCY is a city airport located in the Royal Docks between the Royal Albert Dock and King George V Dock, adjacent to the Woolwich Reach and Gallions Reach of the River Thames.
- 2.3 The Airport Site has recently been extended to an area of about 60 hectares with the addition of the CADP1 works over King George V Dock (see below). The existing infrastructure includes a runway, parallel taxiway, aprons, a main passenger terminal, a corporate aviation centre (known as the “Jet Centre”) on the western side, as well as other operational buildings and associated infrastructure to the east.
- 2.4 The Airport has a good Public Transport Accessibility Level (PTAL) of 3 (where 1 is the lowest level and 6b the highest level achievable)¹. The Airport is well connected to London’s public transport rail system via its onsite DLR station, which links directly into the airport terminal building with direct connections to/from the City, Stratford and Woolwich.
- 2.5 Vehicle access to the Airport is provided from Hartmann Road, which is a private road with an east-west orientation that connects with the A112 Connaught Road at a signalised junction at its western end.
- 2.6 The runway is surrounded by water in the Royal Albert Dock and the King George V Dock. The wider surrounding area is in urban use with a mix of residential, industrial and commercial uses located on the northern and southern banks of the River Thames.

Planning History

Previous permissions

- 2.7 Outline planning permission was initially granted in May 1985 and permitted up to 30,160 Air Transport Movements (“ATMs”) (LPA ref. N/82.104). In September 1991 permission was granted for the extension of the runway and variations to the original 1985 permission to allow up to 36,000 ATMs (LPA Ref. LRPG4/G57501/0 & LRP219/J9510/017) and in July 1998 permission was granted to allow up to 73,000 ATMs and included a condition limiting opening times similar to those imposed by the CADP1 consent which currently controls the Airport (LPA ref/) P/97/0826. Prior to 1998 operating hours on Saturday were 0630 to 2200 and on Sunday 0900 to 2200.
- 2.8 Subsequent permissions allowed the Airport to accommodate further growth and include permission granted in July 2009 to allow up to 120,000 ATMs (07/01520/VAR).

City Airport Development Programme (CADP1) Permission (2016)

- 2.9 The CADP1 Permission or ‘Parent Permission’ was approved by the joint Secretaries of State for Transport and Communities and Local Government in July 2016 following an appeal and public inquiry which was held in March 2016. This permitted the comprehensive upgrade to the infrastructure and passenger facilities at the Airport and permitted up to 111,000 ATMs and for the first time included a cap on passenger numbers of 6.5 million annually. The full description of development was as follows:

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

- a. ***Demolition of existing buildings and structures;***
- b. ***Works to provide 4 no. upgraded aircraft stands and 7 new aircraft parking stands;***
- c. ***The extension and modification of the existing airfield to include the creation of a taxilane running parallel to the eastern part of the runway and connecting with the existing holding point;***
- d. ***The creation of a vehicle access point over King George V dock for emergency vehicle access;***
- e. ***Laying out of replacement landside Forecourt area to include vehicle circulation, pick up and drop off areas and hard and soft landscaping;***
- f. ***The Eastern Extension to the existing Terminal building (including alteration works to the existing Terminal Building) to provide reconfigured and additional passenger facilities and circulation areas, landside and airside offices, immigration areas, security areas, landside and airside retail and catering areas, baggage handling facilities, storage and ancillary accommodation;***
- g. ***The construction of a 3 storey Passenger Pier to the east of the existing Terminal building to serve the proposed passenger parking stands;***
- h. ***Erection of a noise barrier at the eastern end of the proposed Pier;***
- i. ***Erection of a temporary noise barrier along part the southern boundary of the Application Site to the north of Woodman Street;***
- j. ***Western Extension and alterations to the existing Terminal to provide reconfigured additional passenger facilities and circulation areas, security areas, landside and airside offices, landside retail and catering areas and ancillary storage and accommodation;***
- k. ***Western Energy Centre, storage, ancillary accommodation and landscaping to the west of the existing Terminal;***
- l. ***Temporary Facilitation works including erection of a noise reduction wall to the south of 3 aircraft stand, a Coaching Facility and the extension to the outbound baggage area;***
- m. ***Works to upgrade Hartmann Road;***
- n. ***Landside passenger and staff parking, car hire parking and associated facilities, taxi feeder park and ancillary and related work;***
- o. ***Eastern Energy Centre;***
- p. ***Dock Source Heat Exchange System and Fish Refugia within King George V Dock; and***
- q. ***Ancillary and related works.”***

- 2.10 Condition 2 required the development to be carried out in accordance with approved plans and documents listed in the decision notice, including the Energy and Low Carbon Strategy and Sustainability Statements.
- 2.11 The principal operational controls and restrictions imposed on the Airport include the following planning conditions.
- Condition 17 controls the times which aircraft can take-off and land at the Airport. Except in cases of immediate emergency to an aircraft and/or the persons on board, the Airport shall not be used for the taking off or landing of aircraft at any time other than between the hours of:
 - 0630 and 2200 on Monday to Friday inclusive;
 - 0900 and 2200 on Bank Holidays and Public Holidays (with the exception of Christmas Day in condition 27);
 - 0630 and 12.30 on Saturdays; and
 - 1230 and 2200 on Sundays.
 - Other conditions replicate these time restrictions in relation to aircraft maintenance and repair (condition 8); and ground running, testing and maintenance (condition 50).
 - Condition 23 permits a maximum of 111,000 Actual Aircraft Movements at the Airport per calendar year. It also imposes daily limits with a maximum of 100 per day on Saturdays; 200 per day on Sundays (but not exceeding 280 on any consecutive Saturday and Sunday); 592 per day on weekdays; and individual limits for specified Bank Holidays.
 - Condition 25 permits a maximum of 6 Actual Aircraft Movements between 0630 and 0659 hours on Mondays to Saturdays (excluding Bank Holidays and Public Holidays when the Airport shall be closed for the use or operation of aircraft between these times). In tandem with this, condition 26 requires that the number of Actual Aircraft Movements in the period between 0630 hours and 0645 shall not exceed 2 on any of these days.
 - Condition 43 requires that the annual passenger throughput of the Airport shall not exceed 6.5 million passengers.
- 2.12 A series of other conditions impose environmental controls and restrictions on the Airport, including operation of the Aircraft Noise Categorisation System (conditions 18 and 19); the Noise Management and Mitigation Strategy (condition 31); as well as other conditions relating to sustainability, biodiversity, air quality, lighting and surface access, amongst others.
- 2.13 Since the CADP1 Permission was approved and implemented in 2017, approval has been granted for several non-material amendment applications ('S96A applications') which have made amendments to the CADP1 Permission. The details of each application are summarised in the Planning History provided in Appendix 1 of the draft Statement of Common Ground.
- 2.14 Due to the pause of construction in 2020 during the COVID 19 pandemic, it is now anticipated that the remaining CADP1 works (including the new terminal buildings) will be built out over a more prolonged period. It is expected that construction could recommence by the time that the Airport returns to pre-pandemic levels and potentially be complete by 2031-33.
- 2.15 On 21 April 2023, LBN granted consent for the retention and erection of Permitted Development Facilities for a period of up to 10 years (LPA ref 22/03047/FUL). These works are required to help facilitate the construction of the CADP1 permission following the unavoidable delays to the CADP1 project as a consequence of the pandemic. They enable

the Temporary Goods-in Facility (GIF) Temporary Immigration Facility (TIF) Temporary Outbound Baggage Facility (TOBB) temporary decked car park, temporary car rental building to stay in situ and the construction of a Temporary Gate Room pending the completion of CADP1.

- 2.16 Shortly before the determination of CADP1 in 2016, outline planning permission was also granted for the erection of a 260-bedroom hotel and associated development (the CADP2 Permission) (LPA ref. 13/01373/OUT). The CADP2 Permission has not as yet been implemented and remains extant¹.

The Airport Master Plan (2020)

- 2.17 Following the guidance set out in Annex B of the Aviation Policy Framework (2013), the Airport published its master plan on 4 December 2020 following a 16-week consultation undertaken in summer 2019. The master plan provides the Airport's long-term vision and is a clear statement of intent to enable future development to be given due consideration in local planning processes.
- 2.18 The master plan flagged the Airport's intention to grow before the S73 was submitted and explained the potential for:
- Growth and modernisation – up to 11 million passengers per annum (mppa) and 151,000 Air Transport Movements (ATMs) by the mid to late 2030s
 - Making best use of the existing runway and land within the existing Airport boundary
 - Accelerating investment in new generation aircraft – with more flexibility in hours of operation (first and last half hours and more flexible times at weekends)
 - Creating new jobs – with 11 mppa the Airport could sustain 5,300 FTE jobs, an additional 700 indirect and induced jobs and £210 million GVA
 - Contributing to overall economic performance of London - £2 billion per year
 - Committing further to sustainable transport to and from the Airport – target 90% of passenger journeys by sustainable and public transport by 2041.

¹ Reserved Matters must be submitted by 4 July 2024

3 THE PROPOSED AMENDMENTS AND APPLICATION PROCESS

- 3.1 A detailed description of the Proposed Amendments and planning process up to determination are provided in the draft Statement of Common Ground (Appendix 1), with a brief summary provided below.

Proposed Amendments

- 3.2 This S73 Application proposes to amend planning conditions attached to the CADP1 Permission, pursuant to S73 of the Town and Country Planning Act 1990 (as amended). The description of development for the 'Proposed Amendments' is as follows:

"Section 73 application to vary Conditions 2 (Approved documents) 8 (Aircraft Maintenance) 12 (Aircraft Stand Location) 17 (Aircraft Take-off and Land Times) 23, 25, 26 (Daily limits) 35 (Temporary Facilities) 42 (Terminal Opening Hours) 43 (Passengers) and 50 (Ground Running) to allow up to 9 million passengers per annum (currently limited to 6.5 million) arrivals and departures on Saturdays until 18.30 with up to 12 arrivals for a further hour during British Summer Time (currently allowed until 12.30), modifications to daily, weekend and other limits on flights and minor design changes, including to the forecourt and airfield layout attached to planning permission 13/01228/FUL allowed on appeal APP/G5750/W/15/3035673 dated 26th July 2016 which granted planning permission for; Works to demolish existing buildings and structures and provide additional infrastructure and passenger facilities at London City Airport"

- 3.3 The proposed changes do not alter the CADP1 description of development. The red line planning application boundary for the S73 Application remains the same as that of the CADP1 Permission.
- 3.4 Changes to the passenger cap and opening times on Saturday afternoon will enable the number of passengers to increase at the Airport, without any increase to the existing 111,000 aircraft movement limit set by the CADP1 Permission. Included in the operational changes are proposed changes to allow the Airport to operate until 18.30 on Saturday afternoons (and an hour later for up to 12 arrivals during British Summer Time), increase the number of flights permissible in the first half hour of operations (06.30-06.59) and increase the passenger cap from 6.5 to 9 million passengers per annum.
- 3.5 The forecast number of passengers are summarised in Table 3.1 alongside forecast movements which compares the Development Case (with development) and Do Minimum (without development) which are used throughout the Environmental Statement (ES) that accompanies the S73 Application. For robustness, the ES also included faster and slower growth assessments which are summarised in the Statement of Common Ground.

Table 3.1 : Forecast Passengers and Air Transport Movements

Year	Passengers (millions)		Commercial ATMs (i.e. excluding jet centre movements)	
	With Development (Core or Development Case) (DC))	Without Development (Do Minimum (DM))	With Development (Core Development Case (DC)	Without Development (Do Minimum (DM)
2024	4.8	4.8	73,280	73,080
2025	5.3	4.9	78,110	73,630
2026	6.1	5.2	85,585	76,370
2027	6.9	5.3	92,255	77,465
2028	7.5	5.9	96,965	82,245
2029	7.8	6.4	99,265	84,985
2030	8.5	6.5	106,035	84,985
2031	9.0	6.5	111,000	84,985

3.6 Extended opening hours are essential both to enable airlines to serve demand, particularly for weekend leisure flying, and also to incentivise the main airline operators at LCY to accelerate their investment in cleaner, quieter, new generation aircraft as well as to increase their fleets of aircraft deployed at LCY due to the substantially improved economics of their operations with longer opening hours. These new generation aircraft carry more passengers and can serve an extended range, opening up new destinations and helping to better meet the demand from passengers as well as offering substantially enhanced noise and emissions performance.

3.7 The benefits of extended Saturday opening arise in several ways:

- Allowing based airlines to achieve greater utilisation from the fleet of aircraft based at LCY so incentivising earlier replacement of current generation aircraft, which will happen at a slower pace without such incentivisation due to the high cost of replacement aircraft, and growth by incentivising more airlines to base aircraft at LCY;
- Enabling airlines serving hubs to improve their ability to offer a wide range of global connections to/from LCY that work in both directions over the week;
- Offering point to point airlines more opportunities to serve LCY and its local market with a consistent schedule 6 days a week, making initiating new routes and services more viable;
- The accelerated introduction of new generation aircraft brings noise and other environmental benefits throughout the week to the local area and not just in new periods; and
- Longer operating hours on Saturdays create more opportunities for local residents to use their local airport for leisure as well as business purposes, with a greater range of holiday destinations available at weekends, to places such as the Eastern Mediterranean, including the Greek Islands, or the Canary Islands, which currently cannot be served on Saturdays as the Airport shuts too early for the return flight to operate.

3.8 Without a change to the operating hours, not only would growth be significantly slower than required to keep pace with local demand but the modernisation of the fleets would take longer to achieve, so delaying the noise benefits as well as the substantial economic benefits.

- 3.9 Changes to the early morning flights to allow 9 rather than 6 movements in the first hour (4 instead of 2 in the first 15 minutes), will provide additional flexibility in a period when the Airport already operates.
- 3.10 Changes to the passenger cap and opening times will enable the number of passengers to increase at the Airport, without any increase to the 111,000 Annual aircraft movement limit set by the CADP1 Permission. This is in part due to the new generation aircraft having a higher seat capacity which allows them to carry more passengers without increasing the number of flights.
- 3.11 The Airport proposes that only cleaner, quieter, new generation aircraft will be permitted to operate in any newly extended hours on a Saturday as well as the three additional flights in the first half hour of the day (0630-0659).

Application process

Pre-application

- 3.12 The Airport entered into a Project Planning Performance Agreement with LBN on 7 April 2022. As part of this process the Airport held several meetings, agreed the scope of the S73 Application and contributed towards the cost of officer time and LBN's consultant team led by Land Use Consultants (LUC) who provided advice on the scope of the Environmental Statement.
- 3.13 Pre-application meetings were also held with the Greater London Authority (GLA), Transport for London (TfL) and the Environment Agency (EA).
- 3.14 LCY undertook a major public consultation exercise on the proposals between 1 July 2022 and 9 September 2022 which was advertised via social media, local newspaper advertising, press releases, a community newsletter and direct correspondence between the Airport and a wide range of political and community stakeholders.
- 3.15 During this period the opportunity to access details about the proposals was provided through a dedicated consultation website with a virtual exhibition, seven public exhibitions and nine popup events across 11 London Boroughs. In total there were over 3,000 visits to the website, over 1,000 people attended the pop-up events and 130 people attended the exhibitions. As well as information about what was proposed, an Initial Environmental Report (IER), Sustainability Roadmap and 2020 Master Plan were provided.
- 3.16 Each mode of consultation provided the opportunity for people to leave their feedback, either in response to pre-prepared questions or their own words, and in total over 5,000 responses were received.
- 3.17 In response to feedback received as part of the public consultation, the Airport made a number of changes to its proposals. The Airport limited changes in opening hours as much as possible. In the consultation material it suggested operating on Saturdays like any other week day, with flights operating until 10.00pm (and delayed flights operating until 10.30pm). Whilst the changes were supported by airlines, passengers and business/industry, concerns were expressed by residents. The Airport carefully considered the feedback and adopted a balanced approach, keeping Saturday evenings free of flights for residents but still giving airlines enough time to serve a wider range of destinations on Saturdays and the incentive they need to invest in new generation aircraft. As a result, it reduced the proposed extension of operating hours on Saturdays to 6.30pm, with an allowance to 7.30pm in summer to reflect

the greater likelihood of delays in this busy period. The proposed changes are summarised in the table below:

Proposals Consulted upon	S73 Application
Saturday opening until 10pm (delayed flights operating until 10.30pm)	Saturday opening until 6.30pm (7.30pm in summer months)
6 additional aircraft movements (resulting in a total of 12 aircraft movements) between 06.30 and 06.59	3 additional aircraft movements (resulting in a total of 9 aircraft movements) between 06.30 and 06.59
Additional flexibility was sought for later departures and arrivals in the evening	No additional flexibility was sought for later departures and arrivals in the evening

3.18 Taking into account feedback, the Airport also committed to:

- Only cleaner, quieter, new generation aircraft will be permitted to fly in any extended hours and additional slots
- A significantly enhanced Sound Insulation Scheme to further mitigate the impact of aircraft noise on neighbouring communities
- An improved Community Fund, to target investment in amenity in areas close to the Airport and overflowed by aircraft, particularly given the proposed changes to operating hours on Saturday afternoons.
- Maintain LCY's position as the UK's best performing Airport for sustainable transport use by passengers, with a target of 80% by 2030.

3.19 Other consultation also took place. For instance on 30 June 2022, the Airport briefed its consultative committee, the LCACC. Attending this meeting were representatives from the London Borough of Newham, the London Chamber of Commerce and Industry, HACAN East, community groups and local residents.

3.20 On 4 November 2022, the Airport presented the proposals to Newham's Development Control Members' Forum.

Application and afterwards

3.21 The S73 Application was submitted and, in due course, registered by the London Borough of Newham as valid as of 19 December 2022.

3.22 Taking into account the scope of the public consultation undertaken for CADP1, the Council went beyond the requirements of its Statement of Community Involvement and, as well as neighbour notifications and advertisements in the local press, advertised in a number of newspapers where residents are overflowed by the Airport and sent consultation letters to 57,379 properties within the CADP1 54dB noise contour.

3.23 Following some delay in sending out consultation notifications, the Council's stated deadline for the receipt of consultation responses was 19 March 2023.

3.24 At a meeting of LBN's Full Council on 27 February 2023, some three weeks before the end of the consultation period, an urgent motion was tabled on 'No to London City Airport adding extra weekend flights.' LBN resolved as follows:

“For the Lead Member to write to the Secretary of State for Transport, Rt Hon Mark Harper and lobby the government to reject any application to extend Saturday flights at London City Airport.”

- 3.25 In relation to the Council's consultation on the application, according to the OR (Update), a total of 1,706 responses were received from members of the public and interested parties. Of these responses, 75 wrote in support, 1,646 wrote to object and 3 did not support nor object to the proposals.
- 3.26 During the determination of the application there was regular engagement between the Airport and LBN and its Consultant Team. Meetings were also held with statutory consultees including the GLA, TfL and LBN Highways. LBN's appointed Consultant Team was led by LUC who reviewed the technical aspects of the application including the overall robustness of the Environmental Statement and the Need Statement. Preliminary draft reports were received as follows:
- Review of the Environmental Statement for London City Airport: Draft Review Report (April 2023) 'The Draft ES Review'
 - Review of Noise and Vibration Aspect of Environmental, Rupert Thornely Taylor 'Draft Noise Review'
 - London City Airport: Review of Need Statement document dated April 2023 commissioned by the Council from Chris Smith Aviation Consultancy Limited (CSACL).
- 3.27 A detailed response was provided to LBN to the Draft ES review 2023 and Draft Noise review in an 'Initial Response to LUC' in April 2023. The response on need was sent to LBN on 5 May 2023. Final Reports were then published by the Council's Consultants in June 2023. Detailed responses to the CSACL Report were provided separately.
- 3.28 Table 15.1 of LUCs June 2023 Final Report included a summary of the issues raised and whether the Applicant's response had satisfactorily address clarifications/requests. This confirms that save for matters relating to Air Quality all matters were considered to have been resolved and were acceptable subject to minor clarifications or capable of being addressed with planning conditions.
- 3.29 In respect of Air Quality, LBN has subsequently confirmed that a monitoring condition would address concerns about Ultra Fine Particles and impacts on air quality would not amount to a reason for refusal (OR129).

LBN Determination

- 3.30 On 10 July 2023 LBN resolved to refuse planning permission subject to referral to the Mayor of London. On 20 July 2023, the Deputy Mayor of London confirmed that *'I am content to allow the local planning authority to determine the case itself, subject to any action that the Secretary of State may take, and do not therefore wish to direct refusal or to take over the application for my own determination.'*
- 3.31 In the decision notice dated 24 July 2023 LBN cited two reasons for refusal :
- “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 in significant harm to the residential amenity of nearby residential properties. This would be contrary to policies D13 and T8 of The London Plan (2021) and policies SP2 and SP8 of the Newham Local Plan (2018).***

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 THE DEVELOPMENT PLAN

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. In this instance, the relevant adopted development plan for the site comprises:
- The London Plan – the Spatial Development Strategy for London (March 2021);
 - Newham Local Plan (2018); and
 - Local Plan Policies Map (2018).
- 4.2 The relevant material considerations include:
- The National Planning Policy Framework (NPPF) (2021)
 - National aviation policy and Guidance
 - National Planning Policy and Guidance
- 4.3 LCY will demonstrate that the Proposed Amendments, particularly in relation to noise matters associated with LBN's reason for refusal, are consistent with development plan policy and other material considerations, including national policy.

National Planning Policy Framework/Planning Practice Guidance (PPG)

- 4.4 The July 2021 National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied. The NPPF is a material consideration in planning decisions.
- 4.5 With regards to noise, PPG cross refers to the Noise Policy Statement for England (see below) that is the golden thread across planning and aviation policy.
- 4.6 With regards to aviation noise, the PPG notes that where airport expansion is considered through the planning system, it will be important for decisions to consider any additional or new impacts from that expansion, and not to revisit the underlying principle of aviation use where it is established (Paragraph: 014 Reference ID: 30-014-20190722).
- 4.7 The PPG also contains guidance on the way in which national planning policies are to be implemented. In relation to noise matters, it makes it clear that noise should not be considered in isolation and states as follows:

“... it is important to look at noise in the context of the wider characteristics of a development proposal, its likely users and its surroundings, as these can have an important effect on whether noise is likely to pose a concern.” (Ref. ID: 30-002-20190722)

National Aviation Policy

- 4.8 National Aviation Policy is set out in a number of documents summarised below. Whilst some of these documents are referenced in paragraphs 40 onwards of the OR, LBN's report did not undertake any analysis of the proposals against the full range of national aviation policy.

Aviation Policy Framework (March 2013)

- 4.9 The Aviation Policy Framework (APF) sets out the Government's primary objective related to long-term economic growth, within which the aviation sector is seen as a major contributor. The APF supports growth which maintains a balance between the benefits of aviation and its costs, particularly in relation to negative effects on climate change, noise and air pollution. In doing so, it identifies an objective of ensuring that the aviation sector makes a significant and cost-effective contribution towards reducing global emissions; and to limit and where possible reduce the number of people in the UK significantly affected by aircraft noise.
- 4.10 The APF sets out the Government's expectation that airport operators will offer mitigation against aircraft noise to households and noise sensitive buildings based on the severity of the noise exposure, as defined by noise contours.

Airports National Policy Statement (ANPS)(June 2018)

- 4.11 The ANPS is principally concerned with a third runway at Heathrow and is of more limited relevance to consideration of this S73 Application. Paragraph 1.42 states that airports wishing to make more intensive use of existing runways will need to submit applications which will be judged on their own merits and notes the findings of the Airport Commission on the need for more intensive use of existing infrastructure and accepts that it may be '*may well be possible for existing airports to demonstrate sufficient need for their proposals, additional to (or different from) the need which is met by the provision of a Northwest Runway at Heathrow.*'
- 4.12 Paragraph 5.82 states as follows in respect of carbon emissions: '**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.**'

Beyond the Horizon - The Future of UK Aviation: Making best use of existing runways ('MBU') (June 2018)

- 4.13 This is an important policy document that sets Government policy for the expansion of airports other than Heathrow. No reference was made to this document in the OR. Beyond the Horizon (or 'MBU') includes a section on 'Role of local planning' and states that most concerns raised can be addressed through the Government's existing policies as set out in the 2013 Aviation Policy Framework and goes on to state that for the majority of environmental concerns, the Government expects these to be taken into account as part of the existing local planning application processes and demonstrate how mitigation addresses local environmental issues (paragraph 1.9, 1.23 & 1.26).
- 4.14 Making best use of existing airport capacity, with specific reference to runways, is a key theme in this document (paragraph 1.1, 1.11 & 1.29), along with sharing economic benefits with local communities, where paragraph 1.22 states as follows:
- 'The government recognises the impact on communities living near airports and understand their concerns over local environmental issues, particularly noise, air quality and surface access. As airports look to make best use of their existing runways, it is important that communities surrounding those airports share in economic benefits of this, and that adverse impacts such as noise are mitigated where possible.'***

Aviation Strategy 2050: The Future of UK Aviation (December 2018)

- 4.15 Published in December 2018 as a consultation draft, this document has not as yet been issued in final form. Paragraph 4.1 states:

“Airports can directly support thousands of jobs and generate economic benefits beyond the airport fence. Core and specialist aviation services, freight companies, logistics hubs and aerospace investment are often located close to airports, creating jobs in the local area”.

Decarbonising Transport: A Better, Greener Britain (July 2021)

- 4.16 This document was published by the DfT on 14 July 2021. It sets out various commitments to decarbonise all forms of transport.

Flightpath to the Future (May 2022)

- 4.17 Described as a ‘Strategic Framework’ in the document (FttF) itself, the Department for Transport’s (DfT) website explains that:

“‘Flightpath to the future’ is a strategic framework for the aviation sector that supports the Department for Transport’s vision for a modern, innovative and efficient sector over the next 10 years....”

- 4.18 Page 2 (Ministerial Forward) of FttF expresses support for airport expansion where it is justified to boost the global economy and level up the UK, but also commits to a much greener future. Page 18 states:

“It is also essential that we utilise existing airport capacity in a way that delivers for the UK, putting the needs of users first and supporting our aims to enhance global connectivity.”

- 4.19 There is also clear acknowledgement of the challenges faced by the industry following the COVID 19 pandemic. The Ministerial Foreword on Page 2, for instance, acknowledges that the airline industry was one of the most severely hit sectors. There is frequent reference to helping the sector “build back better” and a desire to support growth in passenger demand.

Jet Zero: Strategy for Net Zero Aviation by 2050 (July 2022)

- 4.20 Paragraph 1.2 of the Jet Zero Strategy (JZS) states that the Government is ‘...committing the UK aviation sector to reach net zero or Jet Zero by 2050’. The JZS sets an earlier target for UK domestic flights to reach net zero by 2040 (paragraph 1.3), sets out an ambition for all airport operations in England to be zero emission by 2040 (paragraph 3.5), mandates 10% use of Sustainable Aviation Fuels, SAF (paragraph 3.17), and sets an aspiration for zero emission aircraft to be operating on routes connecting different parts of the United Kingdom by 2030 (paragraph 3.36). The Strategy will be reviewed every five years and adapted depending on progress made (paragraph. 1.4).

- 4.21 In respect of airport operations, paragraph 3.5 states as follows:

‘.. it is right to place more ambitious targets on airports, reflecting that the aviation sector will face difficulties to reduce emissions overall ...significant co-benefits, especially when combined with the introduction of new generation aircraft can be realised by reducing local air pollution and noise for local communities’

- 4.22 JZS also confirms that ‘Beyond the Horizon - The Future of UK Aviation: Making best use of existing runways’ (MBU) continues to have full effect as a material consideration in decision making on applications for planning permission (page 74).

Overarching Aviation Noise Policy (27 March 2023)

- 4.23 In March 2023, Government published a succinct update to its Aviation Noise Policy noting that its full noise policy would be published later in the year. This is stated to be:

“The Government’s overall policy on aviation noise is to balance the economic and consumer benefits of aviation against their social and health implications in line with the International Civil Aviation Organisation’s Balanced Approach to Aircraft Noise Management. This should take into account the local and national context of both passenger and freight operations, and recognise the additional health impacts of night flights.

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

- 4.24 By way of further explanation, the Government states:

“We consider that “limit, and where possible reduce” remains appropriate wording. An overall reduction in total adverse effects is desirable, but in the context of sustainable growth an increase in total adverse effects may be offset by an increase in economic and consumer benefits. In circumstances where there is an increase in total adverse effects, “limit” would mean to mitigate and minimise adverse effects, in line with the Noise Policy Statement for England.”

- 4.25 These tests are more up to date than the London Plan and Newham Local Plan and must be given significant weight. No proper consideration was given to this national policy when LBN determined the S73 Application, with no reference or analysis against the requirements in the noise section of the OR.

Other National Policy

Noise Policy Statement for England (NPSE) (March 2010)

- 4.26 The Noise Policy Statement for England (2010) sets out the long term vision and national policy on noise. It aims to avoid, minimise, mitigate and where possible reduce significant adverse impacts on health and quality of life.
- 4.27 The aims of the NPSE requires that all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life while also taking into account the guiding principles of sustainable development.”.
- 4.28 Page 4 of the NPSE states as follows:

“Through the effective management and control of environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development:

- ***avoid significant adverse impacts on health and quality of life;***
- ***mitigate and minimise adverse impacts on health and quality of life.***
- ***where possible contribute to the improvement of health and quality of life.”***

Air Quality Policy

Clean Air Strategy (January 2019)

- 4.29 The Government's Clean Air Strategy was published in January 2019. It recognises that air quality is the largest environmental health risk in the UK and that emissions from transport are a significant source. It recognises that World Health Organisation (WHO) guidelines are the international benchmark for setting air quality standards and sets out a number of actions to reduce exposure to air pollution, including reducing particulate matter levels to those of the WHO 2006 guidelines and review mechanisms to consider whether there should be more challenging milestones towards WHO goals.

Environment Act 2021

- 4.30 The Environment Act 2021 passed into UK law in November 2021. The Act gives the Government the power to set long-term, legally binding environmental targets. It also establishes an Office for Environmental Protection (OEP), responsible for holding the Government to account and ensuring compliance with these targets. The Environmental Targets (Fine Particulate Matter) (England) Regulations 2023 (SI 2023 No. 96) sets two statutory new targets for future (2040) concentrations of PM_{2.5}.

Environmental Improvement Plan 2023

- 4.31 The Environmental Improvement Plan 2023 sets out the new air quality targets which have been set for concentrations of PM_{2.5}. These targets, include the long-term targets in the Statutory Instrument described above, and interim targets to be achieved by 2028.

Air Quality Strategy 2023

- 4.32 'The Air Quality Strategy: Framework for Local Authority Delivery 2023' sets out the strategic air quality framework for local authorities and other Air Quality Partners in England. It sets out their powers and responsibilities, and actions the Government expects them to take. It does not replace other air quality guidance documents relevant to local authorities.

Strategic Planning Policy

London Plan (March 2021)

- 4.33 The London Plan is the Spatial Development Strategy for Greater London. It sets out a framework for how London will develop over the next 20-25 years and the Mayor's vision for Good Growth.
- 4.34 Policy SD1 'Opportunity Areas' sets out how planning policies and decisions should deal with Opportunity Areas which are areas identified as significant locations with development capacity to accommodate all types of infrastructure, new housing and commercial development.
- 4.35 The Airport is located within the Royal Docks and Beckton Riverside Opportunity Area. Paragraph 2.1.48 notes that this area is one of the largest regeneration opportunities in London that will become a vibrant new London quarter, creating a world-class business, industrial, cultural and residential district. It notes that the key to delivering the area will be by ensuring high-quality development with new infrastructure along with homes and workspace.
- 4.36 Policy T8 'Aviation' is cited as a reason for refusal by LBN in the OR without any explanation as to why the change in operating hours is considered to conflict with the policy. The policy in full is as follows:

“A 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. This should be reflected in relevant Development Plans and other area-based strategies.

B The environmental and health impacts of aviation must be fully acknowledged and aviation- related development proposals should include mitigation measures that fully meet their external and environmental costs, particularly in respect of noise, air quality and climate change. Any airport expansion scheme must be appropriately assessed and if required demonstrate that there is an overriding public interest or no suitable alternative solution with fewer environmental impacts.

C. The Mayor will oppose the expansion of Heathrow Airport unless it can be shown that no additional noise or air quality harm would result, and that the benefits of future regulatory and technology improvements would be fairly shared with affected communities.

D All airport expansion development proposals that would impact on passenger movements through London should demonstrate how public transport and other surface access networks would accommodate resulting increases in demand alongside forecast background growth; this should include credible plans by the airport for funding and delivery of the required infrastructure.

E Development proposals that would lead to changes in airport operations or air traffic movements must take full account of their environmental impacts and the views of affected communities. Any changes to London’s airspace must treat London’s major airports equitably when airspace is allocated.

F Development proposals should make better use of existing airport capacity, underpinned by upgraded passenger and freight facilities and improved surface access links, in particular rail.

G Airport operators should work closely with airlines, Transport for London and other transport providers and stakeholders to ensure straightforward, seamless and integrated connectivity and to improve facilities and inclusive access. They should also increase the proportion of journeys passengers and staff make by sustainable means such as rail, bus and cycling, and minimise the environmental impacts of airport servicing and onward freight transport

H. Development proposals relating to general and business aviation activity should only be supported if they would not lead to additional environmental harm or negative effects on health, nor impact on scheduled flight operations. Any significant shift in the mix of operations using an airport – for example, the introduction of scheduled flights at airports not generally offering such flights – should be refused.

I. New heliports should be refused, other than for emergency services.”

4.37 Paragraph 10.8.3 states:

“It is important, in the first instance, to make best use of existing airport capacity, which fast, frequent, sustainable surface access can support. Opportunity Areas with excellent airport rail connections can serve as airport gateways and be the focus for new development, in turn helping meet London’s need for new homes and jobs...”

4.38 Paragraph 10.8.7 states that any airport expansion proposals must show that surface transport networks would be able to accommodate the additional trips they would lead to.

4.39 Policy D13 (Agent of Change) is also cited as a reason for refusal by LBN, again with no explanation in the OR as to why the change to opening hours is considered to conflict with the policy, which states as follows:

“A The Agent of Change principle places the responsibility for mitigating impacts from existing noise and other nuisance-generating activities or uses on the proposed new noise-sensitive development. Boroughs should ensure that Development Plans and planning decisions reflect the Agent of Change principle and take account of existing noise and other nuisance-generating uses in a sensitive manner when new development is proposed nearby.

B Development should be designed to ensure that established noise and other nuisance-generating uses remain viable and can continue or grow without unreasonable restrictions being placed on them.

C New noise and other nuisance-generating development proposed close to residential and other noise-sensitive uses should put in place measures to mitigate and manage any noise impacts for neighbouring residents and businesses.”

Local Planning Policy

Newham Local Plan (December 2018)

4.40 The Newham Local Plan was adopted on 10 December 2018. It provides the vision and framework for development in the borough and includes policies relating to sustainability and climate change as well as infrastructure.

4.41 The Airport is located within the Royal Docks spatial area. The Spatial Strategy in Policy S3 ‘Royal Docks’ states:

“...g. London City Airport will continue to perform an important role in the area’s international business and visitor connectivity and as the focus to an employment hub with measures implemented to support the optimisation of existing capacity and further mitigation of its environmental impacts, including improvements to public transport;...”

4.42 Paragraph 1.23 of the Local Plan states:

“London City Airport is a major employer and a catalyst for investment within the area, supporting London’s international role. Its presence is being consolidated by the City Airport Development Plan (CADP) to help optimise its capacity, further mitigate impacts and improve public transport access. Further into the future, there could also be an opportunity to bring forward an additional Crossrail station at London City Airport, should impact tests be overcome.”

- 4.43 The Royal Docks is designated within the 'Arc of Opportunity'. Policy S1 states that the greater opportunities for change will come forward within the Arc of Opportunity which will be the primary focus for new job creation and infrastructure development.
- 4.44 The Airport is allocated as an 'Employment Hub' (ref. E11) for visitor economy, business and logistics on the Local Plan Policies Map (2018). Policy J1 'Business and Jobs Growth' states that proposals will be supported if they address the spatial strategy which seeks to: continue development and promote the Arc of Opportunity and focus attractions and facilities at employment hubs.
- 4.45 The Airport is also designated under the London City Airport Public Safety Zone. Policy INF1 'Strategic Transport' states that proposals that address the policy's strategic principles, spatial strategy and design and technical criteria will be supported. This includes, in relation to air transport, the following:
- "...xviii. Measures to support the optimisation of airport capacity, including access (potentially via a new Elizabeth Line station) and other freight and passenger facilities (T17);..."***
- 4.46 With regards to operational safeguarding, Policy INF1 notes that proposals should safeguard the role and operational function of the following transport infrastructure (including the airport) as part of the strategic transport network.
- 4.47 Figure 6.1 of the Local Plan illustrates the borough wide transport map including the location of airport public safety zones and planned and safeguarded transport improvements.
- 4.48 Policy INF2 'Sustainable Transport' seeks to secure sustainable patterns of transport of movement in the Borough and maximise efficiency, accessibility and positive health impacts. Part 2b states that major applications must be supported by a Transport Assessment and Travel Plan.
- 4.49 Two areas of land to the immediate east of the Airport are allocated as Local Industrial Locations (LILs): LIL5 'Land East of City Airport' the function of which is logistics and transport; and LIL12 'Albert Island' the function of which is B Class Uses and other Industrial Type Uses. Policy J2 'Providing for Efficient Use of Employment Land' states that LILs are designated for protection, managed intensification, and suitable for employment uses.
- 4.50 The Royal Albert Dock and King George Dock which lie directly adjacent to the Airport are allocated as Sites of Importance Nature conservation (SINC). Policy SC4 'Biodiversity' states that SINCs will be specifically protected.
- 4.51 The Airport is also located within Flood Zone 3 and within an area that benefits from flood defences. Policy SC3 'Flood Risk and Drainage' states that developments should take account of flood risk and be supported by a Flood Risk Assessment.
- 4.52 LBN have cited two Local Plan policies as justifying their reason for refusal, policy SP2 and SP8. Relevant extracts are reproduced below:

"SP2 Healthy Neighbourhoods

Development proposals which address the following strategic principles and spatial strategy, and technical criteria will be supported:

1. Strategic Principles and Spatial Strategy:

a. The Council supports health care partners' efforts to promote healthy lifestyles and reduce health inequalities and recognises the role of planning in doing so through the creation of healthy neighbourhoods and places. In Newham, this will be achieved through responding to the following contributors to health and well-being:

i. The need to promote healthy eating through taking into consideration the cumulative impact of A5 uses (hot food takeaways) as per SP9;

ii. The need to improve Newham's air quality, reduce exposure to airborne pollutants and secure the implementation of the Air Quality Action Plan, having regard to national and international obligations as per SP9 and SC5;

iii. The need to improve employment levels and reduce poverty, whilst attending to the environmental impacts of economic development including community/ public safety, noise, vibrations and odour and the legacy of contaminated land as per SP8 and SC1;

iv. The need to improve housing quality and reduce crime, insecurity and stress and improve inclusion through better urban design and housing mix as per H1-4, SC1 and SP3;

v. The need for new or improved health facilities, (as per INF8) and importance of protection and promotion of local access to health and other community facilities and employment, including sources of fresh, healthy food in line with Policies SP6, SC1, INF8 and INF5;

vi. The importance of facilitating and promoting walking and cycling to increase people's activity rates as per INF2;

vii. The need for new or improved inclusive open space and sports facilities, including good quality, secure and stimulating playspace and informal recreation provision for young people and accessible natural greenspace and bluespace to encourage greater participation in physical activity and provide relief from urban intensity, as per INF6 & 7; and

viii. The role of Newham University Hospital as a key provider of clinical care and expertise, employment and training provision.

2. Design and technical criteria: a. The requirement for major development proposals to be accompanied by a health impact assessment detailing how they respond to the above contributors to health and well-being, including details of ongoing management or mitigation of issues where necessary."

4.53 It is not clear from the OR what aspect of the policy LBN considers the proposed additional opening hours would conflict with given that the first part of the policy relates to supporting health care providers and seeks a range of measures which are not relevant to the reason for refusal (e.g. healthy eating, promoting active lifestyles and air quality).

4.54 The OR also did not provide any explanation of why additional opening hours conflict with cited policy SP8. Policy SP8 states as follows:

“SP8 Ensuring Neighbourly Development

Proposals that address the following Strategic Principles, Spatial Strategy and Design, Management and Technical criteria will be supported:

1. Strategic principles and Spatial Strategy

a. All development is expected to achieve good neighbourliness and fairness from the outset by avoiding negative and maximising positive social, environmental and design impacts for neighbours on and off the site;

b. The benefits of development and regeneration will be spread beyond the context of individual development proposals, in accordance with convergence aims;

c. Change brought about by development must not cause problems for existing lawful neighbours, otherwise known as an ‘agent of change’ approach; and

d. The Council encourages innovative approaches to achieving neighbourliness.”

Local Plan Review

- 4.55 LBN has commenced a local plan review and public consultation on the Issues and Options document took place between October and December 2021. LBN subsequently consulted on their first full draft replacement ‘Regulation 18’ local plan between January and February 2023. This draft local plan included policy T5 which among other things sought to be restrictive of development proposals at London City Airport where they result in an increase in adverse impacts to existing local residents and to development proposals for new homes. LCY submitted representations during the Regulation 18 consultation and maintains that in its current form, policy T5 is unsound.
- 4.56 The Local Development Scheme (December 2022) projects that in due course the Regulation 19 draft local plan will be consulted upon in Autumn 2023 and submitted to the Planning Inspectorate for independent examination in early 2024.

Policy Summary

- 4.57 The Airport will show that planning policies at all levels are supportive of proposals which contribute to sustainable economic growth and make best use of existing runway capacity and infrastructure at airports such as LCY, subject to environmental considerations. MBU, FttF, the APF and Aviation 2050 all state that the Government is supportive of airports beyond Heathrow making best use of their existing runways. The development plan has similar policies, with the London Plan requiring better use of existing capacity and mitigation measures that fully meet their external and environmental costs and the Newham local plan supporting optimisation and further mitigation.
- 4.58 At a national level there is clear support for airport growth to boost the global economy and level up the UK where this can be delivered within the UK’s environmental obligations. There is also clear recognition that the sector needs to build back better after the severe effect on the sector from the pandemic.
- 4.59 National policy also recognises that aviation needs to play its part to address the climate change crisis and the Government’s JZS provides a framework for doing so, including routinely

using new aircraft to provide new and improved low carbon services. The JZS is supportive of continued growth in aviation and confirms that expansion of airports can be accommodated within the planned trajectory for achieving net zero emissions by 2050.

- 4.60 All levels of policy require significant detrimental impacts on local communities associated with noise and air quality to be assessed and mitigated.

5 OVERVIEW OF THE CASE FOR THE AIRPORT

- 5.1 LBN has resolved to refuse planning permission on two grounds.
- 5.2 The **first reason for refusal** relates to additional opening hours and that *'The proposal, by reason of the additional morning and Saturday flights, and reduction of the existing Saturday curfew would result in a new material noise impact which would result in significant harm to the residential amenity of nearby residential properties....'*
- 5.3 It is striking and important to note that the application was not refused on any wider environmental grounds relating to the proposed growth of the Airport.
- 5.4 It is also important to note that no explanation is provided in the OR as to 'why' this aspect of the proposals is considered to conflict with cited policies D13 and T8 of the London Plan and Policies SP2 and SP8 of the Newham Local Plan.
- 5.5 The Airport considers that the proposals comply with these and other policies in the development plan and, also taking into account material considerations, planning permission should be granted. It considers that when matters are appropriately balanced, the significant benefits of the proposals clearly outweigh the limited harm. This balancing exercise must take into account up to date Government Aviation Policy including MBU, the Government's overarching Aviation Noise Policy statement (March 2023), and the Noise Policy Statement for England (2010) which LBN has failed to properly acknowledge and analyse.
- 5.6 Following a detailed technical review by its appointed consultants team led by LUC, the OR paragraph 295 confirms that LBN consider that the Environmental Statement meets the requirements of the EIA Regulations and IEMA standards. On this basis, and as set out in the draft Statement of Common Ground, the Airport considers that there is considerable scope to agree technical matters, including on noise, where LBN has not questioned the scope, methodology nor many of the conclusions of the assessments. In respect of noise, LBN's concerns related only to the three additional morning flights and the additional operating hours on Saturday afternoons and not noise impacts overall.
- 5.7 As stated above, LBN has not refused planning permission on any other environmental aspects of the proposed growth of the Airport. LBN has not objected, for example, to the increase in passenger number from 6.5mppa to 9mppa. It is also evident from the OR that, whilst there are minor disagreements on some aspects of technical assessments, LBN does not consider the following aspects of the proposals to be unacceptable: air quality, design, transport and climate change (including energy strategy and carbon emissions associated with surface access, airport buildings and ground operations, and aircraft emissions).
- 5.8 The **second reason for refusal** relates to the absence of an acceptable S106 agreement (as a deed of variation to the Parent Permission). The Airport set out proposed S106 obligations and conditions with the application and considers that these satisfactorily address the limited harm arising from the proposals. Following the submission of the application, discussions only took place on surface transport obligations and LBN has confirmed that these measures were satisfactory and indeed weigh in favour of the proposed development (OR para 301). Had there been an opportunity to discuss and agree the remaining obligations proposed, the Airport considers that this reason for refusal would have fallen away.

6 NEED AND ECONOMIC BENEFITS

- 6.1 The Proposed Amendments will bring many economic benefits which extend far beyond additional jobs and wealth creation in the local area. It will allow the Airport to continue to play an important role in East London, supporting the wider London and UK economy and help make Newham and East London better connected by providing additional choice to local people. It will make London more competitive and with further investment in education and employment initiatives, direct and indirect benefits for the local area will be maximised. Significant weight should be attributed to these benefits, including the benefits to consumers of an increased range of services from the Airport on Saturdays and weekdays, consistent with the new Noise Policy Objective.
- 6.2 The economic benefits of airports are recognised in national policy and guidance, with the Aviation Strategy 2050, published in December 2018, stating that “airports can directly support thousands of jobs and generate economic benefits beyond the airport fence” (paragraph 4.1). MBU (June 2018) states that as airports look to make best use of their existing runways, it is important that communities surrounding those airports share in the economic benefits of this (paragraph 1.22). More broadly, the NPPF and Build Back Better recognise the economic importance of infrastructure with the latter stating that high quality infrastructure is crucial for economic growth, boosting productivity and competitiveness (page 31).
- 6.3 With regard to the development plan, Policy T8 in the London Plan and supporting text recognise the economic and regeneration benefits of airports, particularly in respect of serving Opportunity Areas which can accommodate significant numbers of new homes and jobs. This is of immediate relevance, given the airport’s location in the Royal Docks and Beckton Riverside Opportunity Area. Newham Local Plan (paragraph 1.23) recognises that London City airport is a major employer and catalyst for investment within the area and Policy J1 allocates the airport as an ‘Employment Hub’ (E11) with a strength / focus in ‘visitor economy, business and logistics.’

Forecasts & Capacity Requirements

- 6.4 It is forecast that, if the Proposed Amendments are approved, passenger numbers at LCY would reach 9 mppa by 2031. Evidence will show that these forecasts are consistent with the core assumptions underpinning the Government’s Jet Zero trajectory, which allow for LCY to grow in line with its master plan published in 2020 up to a maximum of 11 mppa and 151,000 annual movements. The Airport disagrees with the suggestions of LBN’s consultant CSACL that the forecasts are too optimistic (OR para. 80) and it will present evidence to show the robustness of its core (and faster and slower) forecasts against policy.
- 6.5 The CADP1 works, as originally consented, are capable of accommodating 9 mppa without further expansion. This has not been challenged by LBN or its consultants. Changes in the mix of airlines and types of services using LCY mean that the spreading of passenger traffic using the Airport over the day has been greater than originally anticipated. When allowance is made for the passengers expected to use the Airport on Saturday afternoons, then the expected busy hour passenger demand on the terminal at 9 mppa is virtually identical to that originally expected when the Airport reached 6.5 mppa in the CADP1 Application.
- 6.6 In the event of the Proposed Amendments not being approved, it is anticipated that the current interim stage of the CADP1 works would be retained at the Airport for a longer period given that the number of passengers using the Airport would be capped at 6.5 mppa and it would take longer for the Airport’s finances to recover sufficiently to allow the construction of the

CADP1 infrastructure over the same timeframe. In this scenario, it is expected that the CADP1 works could be delayed into the late 2030s (c.2037/8).

- 6.7 The Need Case explains that as markets recover from the COVID-19 pandemic, airports in the London system are likely to reach 2019 passenger traffic levels around 2024 and will essentially be full once again. This is particularly the case with Heathrow Airport which is constrained by its infrastructure until a third runway can be delivered. LCY directly competes with Heathrow for its business traffic. This points to the fact that additional capacity is required in the London airport system as soon as possible. This proposal can deliver such capacity quickly, and without the need for large scale physical development.
- 6.8 LBN's assessment, based upon CSACL's review of the Need Case, disputes this conclusion. It effectively concludes that as some airports reach capacity, the demand will simply flow to other airports with spare capacity. Evidence will show that this conclusion does not take into account the commercial realities of airline operations. Different airports and their airlines serve different markets and destinations. If capacity is reached at one particular airport, it does not follow that the demand will simply flow to an alternate airport. Further, it is difficult for any airline to switch airports, or to split their operations, to find capacity elsewhere given the significant investment required by airlines to base and maintain aircraft at an airport, as well as supporting their passengers through terminal facilities.
- 6.9 A further consequence of the approach adopted by CSACL is that passengers local to the Airport, who would prefer to use LCY would be forced to use other airports, with increased surface access time and costs, lost business efficiency and consequential impacts on the surface transport network. This would not be consistent with the emphasis placed by Government on the consumer benefits of aviation, which are a part of the rationale of encouraging airports to make best use of their runway capacity to ensure that such needs are met.

The need for extended opening hours and greater flexibility

- 6.10 Delivering growth to meet the needs of local passengers requires the conditions to be created for the airlines both to modernise and to grow their fleets of aircraft based at LCY. This requires extended operating hours on a Saturday to reduce the current inefficiency in terms of aircraft utilisation of having to park aircraft for 24 hours over a weekend or to position the aircraft away from LCY to operate from other airports without restricted operating hours. Without these extended hours, re-fleeting particularly by airlines basing aircraft at LCY will be materially slower, contrary to the claims made by the GLA.

Benefits to the Economy

- 6.11 Evidence will show the significant benefits of the proposals and how the Proposed Amendments will create jobs and boost economic activity through the operation of the Airport, as well as significantly boosting business productivity and supporting inbound tourism through improved connectivity supporting growth and investment in key economic sectors more generally. In combination, the impact of the Proposed Amendments would enable LCY make a positive contribution to the economy of London of over £1.6 billion a year by 2031 (£702 million a year more than in 2019), of which nearly half would be realised in the local area close to the Airport.
- 6.12 The Proposed Amendments will support the Global Britain and economic recovery agendas more generally.

Increase in number of jobs at the Airport and across London

- 6.13 Evidence will show how the Proposed Amendments deliver significant employment and skills benefits. For instance, the Proposed Amendments will deliver an additional 1,340 jobs (1,170 FTEs) at the Airport by 2031 compared to 2019 supporting additional GVA of £144m, bringing the total number employed onsite to 3,650 (3,230 FTEs). Taking into account the full employment impact (including indirect and induced employment), LCY would support over 5,000 jobs (4,420 FTEs) in the local area from its operations alone, before taking into account the wider stimulus to employment through business productivity and tourism effects.
- 6.14 Greater flexibility for the airlines to operate on Saturday afternoons and additional shift patterns would enhance work opportunities, particularly for those seeking part time employment or non-standard working patterns to fit with their lifestyles.
- 6.15 Despite agreeing that the proposals would benefit job creation in Newham, the Committee Report 'lessens the weight' (OR para 103) that can be attributed to the planning balance. This conclusion is based on the Airport's recent track record in meeting its S106 targets for Newham based "new recruits" not being met. However, this approach is flawed as it overlooks the enormous impact that the Covid-19 pandemic had on the aviation industry and the rebound in performance in 2022 when the Airport was very close to meeting its targets for Newham new recruits and in fact exceeded its targets for new recruits from the Local Area². In focussing narrowly on this aspect of employment, LBN have failed to give appropriate weight to the significant number of jobs and other economic benefits which were not disputed by its own independent consultants during the determination of the application.

Consumer Benefits

- 6.16 The Airport plays an important role in serving local demand for air travel in the local boroughs due to its convenient location and ease of access. This includes business travellers, inbound visitors and, increasingly, local residents. It commands a high share of the local market on the routes that it serves, highlighting the importance of it being able to grow and increase the range of destinations served to better meet local demand by expanding its route network, including leisure services to meet the needs of the growing local population.
- 6.17 The Proposed Amendments will deliver consumer benefits for the local area and beyond, something not acknowledged by LBN in their OR. Evidence will show how the Proposed Amendments will allow the airlines to grow their route network, increasing frequencies of service to existing destinations and services to new destinations. Longer operating hours on Saturdays would create more opportunities for local residents to use their local airport for leisure as well as business purposes, with a greater range of holiday destinations available at weekends. The Proposed Amendments will also allow better connections to hubs, such as Amsterdam, to provide onward connections to global points facilitated by increased early morning and Saturday afternoon operations. This will save local residents from unnecessary journeys to other, more distant, airports.

² The 'Local Area' is defined in the CADP1 Planning Agreement to include the 11 East London Boroughs of Newham, Tower Hamlets, Greenwich, Bexley, Lewisham, Southwark, Barking & Dagenham, Havering, Redbridge, Waltham Forest and Hackney, as well as, Epping Forest District Council'.

Summary

- 6.18 Evidence will show how significant weight should be given to the need and benefits of the proposals. National aviation policy itself gives strong support for growth at airports consistent with the DfT's own national forecasts provided impacts are acceptable, taking into account mitigation.

7 EXTENDED OPENING HOURS (REASON FOR REFUSAL 1)

- 7.1 The Airport will show how the changes to opening hours cause non-significant increases in noise which are outweighed by the regenerative and economic benefits provided by the Proposed Amendments, consistent with the Noise Policy Statement for England and the UK Government's overarching Aviation Noise Policy Statement. The Airport disagrees with LBN's assertion (OR para 151) that insufficient emphasis has been given to the curfew period and the benefits experienced by residents in the Saturday afternoon respite period.
- 7.2 The Airport has limited the change in opening hours as much as reasonably possible consistent with it achieving growth and incentivising a transition to cleaner, quieter new aircraft. In its pre-application consultation undertaken in Summer 2022, it initially suggested that the Airport should operate on Saturdays like any other week day, with flights operating until 10.00pm (and delayed flights operating until 10.30pm). Taking into account concerns expressed by residents and others very carefully, the Airport reduced the proposed extension of operating hours on Saturdays to 6.30pm, with an allowance to 7.30pm in summer to reflect the greater likelihood of delays in this busy period. This is a balanced approach, keeping Saturday evenings free of flights for residents but still gives airlines enough time to serve a wider range of destinations on Saturdays and to incentivise investment in new generation aircraft.
- 7.3 A number of consultation responses raised concerns about the loss of respite on Saturday afternoons. Due to the greater use of quieter new generation aircraft by 2031, weekend noise levels are expected to remain broadly similar to 2019 despite the extended operating hours.
- 7.4 The Airport will continue to provide longer curfew periods (scheduled flight bans) than any other major UK airport.
- 7.5 The noise assessment confirms that overall by 2031 the Airports noise contour will reduce by 20% (relative to the 9.1km² noise contour cap) to around 7.2km² and will have the effect of taking almost 14,000 residents out of the noise contour by 2031.
- 7.6 The additional early morning flights and operational hours on Saturday afternoons will only be available to new generation aircraft, which are substantially quieter than the current generation of aircraft, particularly on departures. This creates a strong incentive for airlines to re-fleet to these new generation aircraft, in order to access the additional operating hours and slots. The Airport disagrees with the GLA³ and LBN (OR para 160) who assert that re-fleeting would take place in any event and that little weight should be given to this benefit. Without the greater operational flexibility provided by the Proposed Amendments, airlines would simply have no incentive to re-fleet at LCY any earlier than the 'natural cycle' of fleet replacement; to the extent that airlines decide to make significant capital investment in new generation aircraft, this is likely to be deployed first at airports where higher utilisation of those aircraft (and a better return on investment) can be achieved.
- 7.7 It will be shown how modernisation of aircraft fleets is key to delivering real noise benefits, which would see noise levels of individual aircraft reduce on average compared to current levels, even with growth. Without a change to the operating hours, not only would growth be significantly slower than required to keep pace with local demand but the modernisation of the fleets would take longer to achieve, so delaying the noise benefits.

³ Stage 2 consultation response (July 2023), paragraph 42

- 7.8 The positive effects of extending opening hours should be given significant weight in the planning balance along with economic (particularly employment) and consumer benefits; the Proposed Amendments are consistent with Government Policy to ensure that communities surrounding the Airport share in the economic benefits of making best use. LBN are incorrect to say (in OR para 166) that there is no guarantee that re-fleeting would take place as this is a decision for the airlines. There would, in effect, be no change to opening hours without the introduction of new generation aircraft for use in these periods. The Airport has stated that it will accept a condition or S106 obligation to only allow specified new generation aircraft to fly in any new periods of operation, ensuring the noise benefits and directly providing the incentives for re-fleeting to those airlines wishing to take advantage of these periods for flying.
- 7.9 On behalf of the LBN, Rupert Thornley-Taylor undertook a review of ES Chapter 8 (Noise) and Chapter 12 (Health). The Applicant responded in detail to the issues raised and considers that matters have been fully addressed. One point in the Rupert Thornley-Taylor review related to the loss of 'respite' on Saturday afternoons and whether this could potentially be considered a significant effect, contrary to the conclusions of the ES. The advice suggested a local social survey could provide an answer but does not elaborate on the scope of the survey nor how its conclusions could establish the 'significance' of the effect. Moreover, LBN did not seek a social survey by way of an EIA Regulation 25 request, nor did it discuss with the Applicant the merits in undertaking such a survey.
- 7.10 The Airport considers that Rupert Thornley-Taylor's suggestion of a local social survey into attitudes associated with Saturday afternoon respite would not be technically reliable. The standard approach to noise assessment set out by the Civil Aviation Authority expressly considers operating, or not, during the day as part of calculating the daytime 16hr LAeq noise level and this is supported by the CAA's updated analysis of the Government's Survey of Noise Attitudes (SONA), which was based on surveys of people's experience of aircraft noise in their home (both inside and outside, e.g. in balconies and gardens). Such assessments have been provided as part of the ES.
- 7.11 As indicated above, on 27 March 2023 the Government restated its key policy tests in respect of aircraft noise to balance the economic and consumer benefits of aviation against their social and health implications with the impact of aviation noise needing to be mitigated as much as it practicable and realistic.

Noise Assessment Conclusions

- 7.12 Chapter 8 of the ES assesses the likely effects of the proposed development due to noise and vibration. This takes into account the extensive noise controls that are already in place at the Airport. The chapter presents an assessment of the noise impacts associated with the Development Case (DC) including:
- Flights into and out of the Airport (air noise);
 - Aircraft operations at the Airport (ground noise);
 - Road traffic movements related to the Airport (road traffic noise); and
 - Construction of the remaining elements from the CADP1 permission that have not as yet been built (construction noise).
- 7.13 As agreed with LBN, an assessment of vibration (both operational and from construction traffic) has been scoped out of the ES on the basis that there are not likely to be any likely significant effects.

- 7.14 Overall, the ES concludes that there are no new or materially different operational noise effects due to the Proposed Amendments. LBN has agreed that there are no new or materially different noise effects due to construction noise, construction vibration (including from construction traffic), aircraft ground noise and surface access noise.
- 7.15 Whilst there are some increases in operational aircraft noise levels, these increases are considered negligible and not significant. Furthermore, the non-significant increases in noise are outweighed by the regenerative and economic benefits provided by the Development Case, consistent with the Noise Policy Statement for England (NPSE) and the UK Government's overarching Aviation Noise Policy Statement.
- 7.16 The first aim of the NPSE is met by avoiding significant adverse effects of noise on health and quality of life due to new and continuing exposure above the Significant Observed Adverse Effect Level (SOAEL) through the provision of the enhanced Sound Insulation Scheme.
- 7.17 The second aim of the NPSE, and the overarching Aviation Noise Policy statement to limit and where possible reduce the total adverse impact on health and quality, is met by the commitment to permit only quieter new generation aircraft to operate in the proposed extended Saturday period and for the additional flights above the currently permitted number in the early morning period.
- 7.18 The third aim of the NPSE to contribute, where possible, to the improvement of health and quality of life is met by the growth opportunity afforded by the Proposed Amendments which, combined with the commitment to permit only quieter new generation aircraft to operate within the extended operating period and for the additional flights in the early morning period, will result in a greater forecast use of quieter generation aircraft. This is evidenced by the predicted reduction in daytime noise levels in 2025 and 2027 due to the greater forecast use of quieter new generation aircraft which offsets the impact of the growth in number of aircraft movements in this period.

Noise Mitigation and Compensation

- 7.19 Consistent with the Government's March 2023 policy tests on noise, the impact of aviation noise has been mitigated as much as practicable and is reasonable to do so and the minor adverse effects have been more than offset by an increase in economic and consumer benefits. A significant enhancement to the Airport's Community Fund is proposed. This will see a total fund of £3.85 million administered over 10 years. The enhanced fund could be used to target funding toward a variety of community interventions that improve amenity in areas local to the Airport and along its flight paths, particularly given the proposed change to operating hours on a Saturday afternoon.
- 7.20 It is also proposed to significantly enhance the scope and effectiveness of the Airport's residential Sound Insulation Scheme (SIS)⁴. A revised scheme will lower the noise threshold for eligibility in one of the SIS categories so that more residents affected by noise receive a higher specification of treatment in their homes.

Policies Cited in LBNs Reason for Refusal

- 7.21 Whilst LBN has cited four policies in support of its reasoning for refusing the S73 application, it has not explained why it considers that the additional early morning flights and Saturday

⁴ Full details of the proposed changes are summarised in paragraph 5.13-5.19 of the Benefits and Mitigation Statement accompanying the S73 Application.

afternoon opening hours conflict with each of the policies. The Airport does not consider that the proposals conflict with any of these policies. Pending any further clarification to LBN's reasoning in due course, the following notes how the proposals comply with each of the policies as follows:

London Plan (2021)

- **D13 (Agent of Change)** - criteria C of this policy states that new noise and nuisance-generating development proposed close to residential and other noise-sensitive uses should put in place measures to mitigate and manage any noise impacts. The Airport and its impacts are not new noise generating development and have co-existed with existing and new communities in the Royal Docks and the wider area for over 30 years. As set out in this statement, the overall noise and health impacts associated with the Proposed Amendments are limited, changes to opening hours on Saturday afternoon have been limited as much as reasonably possible and any harms are outweighed by overall reductions in aircraft noise and economic and consumer benefits. Consistent with the requirements of this policy the enhanced SIS and community fund will help to mitigate and manage noise impacts. Criteria B also implies an expectation that established noise generating uses should be allowed to '*...remain viable and can continue or grow without unreasonable restrictions being placed upon them.*' This applies to the Airport as a major employer, catalyst for the regeneration of East London and transport gateway. New dwellings nearby were constructed in the knowledge of the Airport and consistent with this policy, the Airport should be allowed to evolve and grow in line with Government policy with appropriate mitigation in place.
- **T8 (Aviation)** – part B of this policy requires environmental and health impacts to be fully acknowledged and requires mitigation to fully meet external and environmental costs together with the demonstration of an overriding public interest and no suitable alternative with fewer environmental effects. Part E also requires proposals to take full account of environmental impacts and the views of affected communities. In relation to noise, this policy needs to be read in conjunction with the more up to date Department for Transport National Noise Policy Statement (March 2023) which requires social and health impacts to be balanced against economic and consumer benefits. When considering this balance, the OR has not attributed sufficient weight to the substantial economic and consumer benefits of the scheme. Also, the OR does not give credit to the fact that following the extensive summer pre-application consultation, the changes to opening hours were scaled back as much as reasonably possible to respond to the community feedback, while also providing the minimum operational flexibility to provide an effective incentive for the airlines to invest in new generation aircraft which will help to reduce noise overall at the Airport. Further, the OR does not take into account the mitigation and compensation measures including the community fund and enhanced SIS.

Newham Local Plan (2018)

- **SP2 (Healthy Neighbourhoods)** – This policy does not appear to be relevant to the change in operating hours and is aimed at broader strategies, such as working with health care providers. Improving employment levels and reducing poverty are mentioned in this policy however, contrary to the reason for refusal, the proposed economic benefits of the proposal (see above) will assist in meeting this objective directly.
- **SP8 (Ensuring Neighbourly Development)** - criteria 1a requires all development '*to achieve good neighbourliness and fairness from the outset by avoiding negative and*

maximising positive social, environmental and design impacts...' The Proposed Amendments will help to reduce overall noise at the Airport, helped by changes to operating hours facilitating faster re-fleeting of aircraft. The changes to operating hours have been reduced in response to public consultation and are the minimum needed to allow the airlines to invest and bring forward economic and consumer benefits.

8 S73 OBLIGATIONS (REASON FOR REFUSAL 2)

- 8.1 The S73 Application included a suggested set of revised conditions and these are provided in appendix 2 of the planning statement (December 2022). The Airport considers when full and proper consideration is given to these measures, this reason for refusal would fall away.
- 8.2 The Airport will seek to agree a S106 deed of variation with LBN and others where appropriate. This will include a mitigation package to address residual impacts and ensure that the Proposed Amendments respond positively to planning policy requirements. Key aspects of the mitigation to be secured through conditions or in a S106 agreement include:
- Commitment to only allowing cleaner, quieter, new generation aircraft operating in any newly extended hours on a Saturday as well as the three additional flights in the first half hour of the day (0630-0659).
 - A significantly enhanced residential Sound Insulation Scheme. This will enhance the scope and effectiveness of the Scheme and lower the noise threshold for eligibility in one of the categories of the Scheme so that more residents affected by noise receive a higher specification of treatment in their homes which will not only address small increases in noise but will also enhance take up.
 - A significant enhancement to the Airport's Community Fund is proposed which will see a total fund of £3.85 million administered over 10 years. The enhanced fund could be used to fund a variety of community interventions that improve amenity in areas local to the Airport and along its flight paths, particularly to help compensate for the reduction in respite on Saturday afternoons.
 - Implementation of a Carbon and Climate Change Action Plan to deliver the Airport's commitment to become a London's first net zero airport by 2030 and be one of the first airports in the UK to facilitate zero emissions flights.
 - Commitment for the Eastern Energy Centre will utilise on-site heat pumps and photovoltaics or will be connected to a District Heating Heat Pump. This will contribute to the Airport's initiatives to reduce carbon emissions from airport buildings to zero.
 - Commitment to develop and implement a monitoring and reporting regime for UFPs, potentially linked to the Airport's existing comprehensive Air Quality Management System.
 - Target to achieve 80% of passenger journeys by sustainable modes by 2030 as well as a new Travel Plan to 2031 to implement measures to achieve both passenger and staff targets. This will contribute to the Airport's initiatives to reduce carbon emissions from surface access.
 - Establishment of a new Sustainable Transport Fund which can be used to contribute to surface access projects which contribute to the Airport achieving its mode share. It is estimated that this could contribute up to £2 million per annum over seven years towards sustainable transport infrastructure and measures.
 - Further investment in education, training and assisting getting people back to work, with a fund of up to £1.9 million to build on existing CADP1 measures.

9 OTHER MATTERS

Health and Wellbeing

- 9.1 LBN does not consider population health and wellbeing impacts to be a reason for refusal. The Airport will seek to agree that the Proposed Amendments do not result in any significant impacts on population health and wellbeing. It is noted that LBN concluded as follows in OR paragraph 18 *'the conclusion that the impacts on public health are not significant is generally agreed with..'*
- 9.2 Chapter 12 of the ES relating to health advises that, when looking across the various effects on health, whilst there is some increased adverse influence on health outcomes, the degree of increase is not considered to constitute a significant population health effect.
- 9.3 Areas of agreement being sought will include:
- Population health and wellbeing effects of noise are minor adverse, as set out in ES Chapter 12, predominantly covered in section 12.9 (Environmental Effects: Noise), but also the population health effects associated with day-time amenity of public open spaces covered in section 12.10 (Healthy Lifestyles: Use of Open Space). Mitigation, including relevant to noise, is covered in section 12.20; and residual effects are set out in section 12.21.
 - Population health and wellbeing effects associated with socio-economic opportunities are moderate beneficial, as set out in ES Chapter 12 sections 12.13 (Socio Economic Effects: Good Quality Employment) and 12.14 (Socio Economic Effects: Training Opportunities). Mitigation, including relevant to targeting benefits to vulnerable groups, is covered in section 12.20; and residual effects are set out in section 12.21.

Air Quality

- 9.4 LBN does not consider air quality to be a reason for refusal. The Airport will seek to agree that the Proposed Amendments do not result in any significant impacts on Air Quality. OR paragraph 129 stated that *'..officers consider that the air quality impacts would not be materially greater than those considered acceptable in the parent permission and on balance would be acceptable'*.
- 9.5 Air quality effects of the Proposed Amendments have been comprehensively assessed in accordance with the policy requirements of the London Plan and Newham Local Plan, as well as national guidance, and that there are no significant air quality effects. As noted in the OR any residual concerns about Ultra Fine Particles are capable of being addressed through the imposition of a monitoring condition (OR129). The ES also finds that the Proposed Amendments would remain Air Quality Neutral and provides details of the Air Quality Positive measures that would be implemented, in accordance with the requirements of London Plan Policy SI 1 'Improving Air Quality'.

Carbon and Climate Change

- 9.6 LBN does not consider carbon and climate change to be a reason for refusal. The Airport will seek to agree that the Proposed Amendments do not result in any significant impacts on carbon and climate change. OR paragraph 233 states that *'....officers cannot assign weight to the impacts of additional flights nor cleaner aircraft on local or national targets'*.
- 9.7 The Airport considers that weight should be attached to improved carbon performance in terms of emissions per passenger associated with airport buildings, ground operations and surface

access (e.g. airport emissions). The Airports agrees with the OR that aircraft emissions should be addressed by national policy measures referred to in the Jet Zero Strategy.

- 9.8 The ES identifies the proportion of aircraft GHG emissions with and without the proposed development that would be subject to the UK Emissions Trading Scheme (UK ETS) cap and would therefore be considered to be managed through Government legislation consistent with meeting net zero. The ES concludes that, as was the case in the DM Scenario (i.e. without the development), at least 99% of GHG emissions are covered by the UK ETS with the development (the DC Scenario), with the remaining 1% covered by the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) (paragraph 11.6.13).
- 9.9 The London Plan and LBN policies with local policies primarily concerned with reducing energy demand, encouraging the use of renewable energy associated with buildings, continuing to increase the shift towards public and active transport, and promoting the use of cleaner vehicles.
- 9.10 It will show how the revised energy strategy, which takes into account current London Plan policy, is a significant improvement to the Parent Permission fallback and how the updated approach weights positively in the planning balance.

Transport and Travel

- 9.11 LBN does not consider transport and travel to be a reason for refusal. The Airport will seek to agree that the Proposed Amendments do not result in any significant impacts on surface transport and travel. As noted in OR paragraph 200, following engagement with LBN Transport and Transport for London (TfL), both transport authorities are satisfied that impacts can be addressed through the use of conditions and S106 obligations.
- 9.12 A full assessment of the surface access implications of the Proposed Amendments is provided in the Transport Assessment (TA) and further considered in Chapter 10 (Surface Access) of the ES which are submitted in support of the S73 Application. This assessment work has been informed by discussions with TfL and LBN Highways. Following the submission of the consultation responses from the GLA and LBN Highways, LCY has responded comprehensively to the issues raised, to confirm the robustness of the assessments and consistency of the proposals with policy.
- 9.13 The Airport is committed to encouraging sustainable travel to and from the Airport for customers and employees. Its Sustainability Roadmap is committed to an 80% sustainable mode share for passengers by 2030 while also working towards the London Plan mode share target (90%) by 2041.
- 9.14 Chapter 10 of the ES summarises the impact of the Proposed Amendments on key junctions around the Airport and finds neutral or slightly negative impacts which do not require any specific mitigation to address.
- 9.15 The modelling in section 10 of the ES also finds that there is ample spare capacity on the DLR network in the vicinity of the Airport to accommodate the Proposed Amendments and that the impact on the wider public transport network is minimal.
- 9.16 If approved the Proposed Amendments would allow 2.5mppa more than CADP1, without any increase in parking. As a result, the number of parking spaces per surface access trip will decrease by 28% and continue to drive the delivery of the Airport's sustainable travel targets.
- 9.17 A Framework Travel Plan is included with the Proposed Amendments and this will be further developed for the period to 2031 (the current Travel Plan to 2025 is currently under review with

LBN) and this will help to achieve the Airport's mode share targets. The Airport is also proposing a new Sustainable Transport Fund (STF) to contribute to surface access projects which help the Airport achieving its mode share targets.

Other Topics

- 9.18 No other significant matters were raised during the determination of the application by LBN, including in respect of design.
- 9.19 The OR raises queries on matters such as public safety zones and obstacle limitation surfaces (OR paras 244 & 245). None of these matters were raised by LBN nor its consultant team during the determination of the application, nor are they cited as reasons for refusal. The Airport considers that they do not have a material bearing on the merits of the Proposed Amendments.

10 PLANNING BALANCE AND CONCLUSIONS

- 10.1 The Proposed Amendments would allow the number of passengers at the Airport to increase from 6.5 to 9 million per year, within the 111,000 aircraft movement limit set by the existing CADP1 permission. Helped by revised opening hours on Saturday afternoons and changes at other times, the Proposed Amendments would also facilitate an accelerated transition to cleaner, quieter new generation aircraft. Contrary to assertions by LBN (OR para 302), accelerated re-fleeting with its associated noise and other benefits (which will occur throughout the week) would not take place without the Proposed Amendments.
- 10.2 The Airport will show how any concerns about changes to opening hours are far outweighed by the benefits of the proposals. It disagrees with LBNs assertion (OR para 151) that insufficient emphasis has been given to the curfew period and the benefits experienced by residents in the Saturday afternoon respite period. The Airport will continue to provide longer curfew periods (scheduled flight bans) than any other major UK airport. Much improved sound insulation and the community fund will mitigate and compensate for very small changes in noise overall. Consistent with the Government's March 2023 Aviation Noise Policy Statement, the impact of aviation noise has been mitigated as much as practicable and is reasonable to do so and the minor adverse effects have been more than offset by an increase in economic and consumer benefits.
- 10.3 The Proposed Amendments would bring greater regeneration and economic benefits through the generation of additional jobs and economic benefits. This would have a positive effect on the local community and have a greater catalytic impact on the wider London economy. Significant weight should be given to them. LBN only '*acknowledge*' such benefits and incorrectly underplay them due to unjustifiable concerns about not meeting local employment targets (OR300).
- 10.4 The capacity or need for growth in air travel in the South East (OR para 83) is not relevant in the context of national policy requiring airport's to 'make best use' of existing airports. The Proposed Amendments would enable the Airport to make better use of its existing runway and associated infrastructure. More generally, they would enable the Airport to support the continual evolution of the air travel sector, supporting wider economic growth and benefits. Such benefits have not been properly acknowledged and balanced by LBN.
- 10.5 LBN has rightly identified that the proposed transport contributions weigh in favour of the proposal (OR para 301). The Airport is well served by existing and proposed future public transport with capacity to absorb additional demand associated with the proposed increase in passenger numbers from 6.5mppa to 9.0mppa. A new Sustainable Transport Fund will help the Airport meet its ambitious 80% sustainable transport mode share target by 2030 for passengers and deliver improved options for staff too.
- 10.6 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. In this instance, the relevant adopted development plan for the site comprises the London Plan (March 2021); the Newham Local Plan (2018); and Local Plan Policies Map (2018).
- 10.7 In accordance with policy, the environmental impacts of the Proposed Amendments (including noise, air quality, climate change and health & wellbeing) have been assessed and, where necessary, appropriate mitigation measures are proposed to avoid or compensate for any significant environmental effects. It is proposed that these enhanced mitigation measures are secured through conditions or additional S106 obligations.

- 10.8 Planning policies at all levels are supportive of proposals which contribute to sustainable economic growth and making best use of existing capacity and infrastructure. As set out above, the Proposed Amendments accord with the London Plan and the Newham Local Plan including those policies cited by LBN as justifying its reason for refusal.
- 10.9 LBN does not consider that any other matters amount to proper reasons for refusal. In terms of carbon, the increase in GHG emissions is small and has been accounted for in the Government's forecasts which have informed its Jet Zero Strategy. The Airport is aiming to exceed the current Government targets for achieving net zero from its own (principally scope 1 and 2 emissions) operations and has updated its Low Carbon and Energy Strategy to meet more stringent London Plan requirements. LCY is closely involved in initiatives to accelerate the delivery of zero emissions flight and intends to use its leadership and unique location and route network to be a leader in this field which it anticipates will benefit the regeneration of the wider area.
- 10.10 In relation to the second reason for refusal relating to planning obligations, the S73 Application included a suggested set of S106 obligations (and conditions). The Airport considers that, when full and proper consideration is given to these measures, this reason for refusal falls away. The Airport will seek to agree a S106 deed of variation with LBN and others where appropriate.
- 10.11 Overall, the Proposed Amendments are in accordance with national, strategic and local policy. They are also in accordance with recently updated national aviation policy, which is a principal material consideration in the determination of this appeal. It is therefore considered that planning permission should be granted.