

CITY AIRPORT DEVELOPMENT PROGRAMME (CADP)
S73 APPLICATION

Appeal against the refusal of Section 73 application 22/03045/VAR
London City Airport Limited (PINS ref: APP/G5750/W/23/3326646)

Planning Proof of Evidence of Sean Bashforth

On behalf of London City Airport Limited

7 NOVEMBER 2023



Contents

1	Introduction	1
2	Relevant Background	3
3	Planning Policy Overview	9
4	Overview of the Proposed Amendments	21
5	Rationale for and Benefits of the Proposed Amendments	26
6	Compliance with Development Plan and other policies relating to Noise and Disturbance	31
7	Other topics	39
8	Conditions and S106 Obligations	46
9	The Planning Balance and Conclusions (Overall Summary)	52
	DECLARATION	56

APPENDICIES (Bound Separately) – APP/3/B

1. APP/3/B/1 Air Quality Topic Paper
2. APP/3/B/2 Climate Change Topic Paper
3. APP/3/B/3 Health Topic Paper
4. APP/3/B/4 Technical Note on Transport Modelling and Traffic and Movement Environmental Assessment
5. APP/3/B/5 Extracts of Committee Report relating to Gallions Quarter Development

1. Introduction

Qualifications and Experience

- 1.1 My name is Sean David Bashforth. I hold a First Class Bachelor of Arts Degree in Geography and a Master of Arts Degree in Town and Regional Planning. I am a Member of the Royal Town Planning Institute (RTPI).
- 1.2 I am a Senior Director at Planning Consultants Quod, one of the largest independent planning consultancies in the UK, with offices in London and Leeds. I have advised clients for over 26 years on regeneration and infrastructure projects. I have acted as an expert witness on many occasions in planning and compulsory purchase inquiries and in the Upper Tribunal Lands Chamber.
- 1.3 I have acted for London City Airport (the “Airport”) since 2010. I led the team that prepared the London City Airport Development Programme (“CADP1”) planning applications submitted in 2013. I gave evidence at the public inquiry into the CADP1 proposals, which following approval by the Secretaries of State in 2016, permitted comprehensive upgrades to the infrastructure and passenger facilities at the Airport and introduced the 6.5 million passenger cap and various other controls and mitigation measures. I was the agent for the ‘Proposed Amendments’ which seek to vary the CADP1 Planning Permission by way of an application under Section 73 of the Town and Country Planning Act 1990 and Quod prepared supporting information including the Planning Statement and the Benefits and Mitigation Statement which accompanied that application (“S73 Application”). Elsewhere, I have acted for Luton Airport and Heathrow Airport.
- 1.4 I have read all of the background information and made enquiries such as I consider necessary to fulfil my duties as an expert witness. My evidence comprises my true professional opinion and is provided in accordance with the RTPI Code of Professional Conduct and the RTPI Practice Advice for Planners as Expert Witnesses (September 2018).

Scope of Evidence

- 1.5 My evidence is concerned with whether the Proposed Amendments to the conditions attached to the CADP1 Planning Permission are in accordance with the Development Plan and, if not, whether there are other material considerations which should result in the grant of planning permission.
- 1.6 In my analysis and conclusions, I draw on the evidence of other witnesses representing the Airport: Louise Congdon (Need and Socio-economics) and Richard Greer (Noise).
- 1.7 I focus on the first reason for refusal (“RfR1”) relating to the additional opening times (noise and disturbance), which states as follows:

“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).”

- 1.8 Since the determination of the S73 Application by the London Borough of Newham (“LBN”) S106 heads of terms (CD12.6) have been agreed and, once the Section 106 Agreement has been completed, LBN have confirmed that the second reason for refusal (“RfR2”) will no longer be pursued. In Section 8 of my evidence relating to the S106 agreement I explain why the proposed obligations (along with planning conditions) mitigate any potential significant environmental effects consistent with planning policy.
- 1.9 I have also had regard to the matters in the Inspector’s note issued following the Case Management Conference (CMC) on 9 October, which include:
- Air quality;
 - Highways;
 - Climate Change; and
 - Health.
- 1.10 In doing so, my evidence also addresses matters raised by HACAN East (Rule 6 Party). Appended to my evidence are topic papers in relation to air quality (**Appendix 1**), climate change (**Appendix 2**) and health (**Appendix 3**). As matters are agreed on highways (surface transport) and the matter has not been raised by HACAN East, I have undertaken a high-level review of this topic, and it is not considered necessary to prepare a detailed topic paper. I do however provide a short note explaining how the surface transport analysis remains robust, taking into account latest guidance from the Department of Transport (DfT) and IEMA guidance (**Appendix 4**). None of these topics relate to issues that were reasons for refusal. The topic papers have been prepared for completeness by experts in their field. At the time of drafting my Proof it is not expected that the authors of those papers will need to present their evidence, but this will be kept under review.
- 1.11 My evidence also relies upon the Statement of Common Ground agreed with LBN (“LBN SOCG”) (CD11.2) and the agreed S106 Heads of Terms which have been agreed with both LBN and Transport for London (“TfL”) (CD12.6).
- 1.12 As I come on to explain, given the significant areas of agreement with LBN, this appeal is essentially about a single issue: the acceptability of additional opening hours.

2. Relevant Background

- 2.1 In this section of my evidence, I consider the planning background including the existing planning controls that are most relevant to the Proposed Amendments.

Planning History

- 2.2 Appendix 1 of the Planning Statement (CD1.5) provides an overview of the full planning history at the Airport and the LBN SOCG provides a more detailed description of the recent planning history (paragraph 2.24 onwards).
- 2.3 Outline planning permission for the Airport 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. LRP4/G57501/0 & LRP219/J9510/017) and in July 1998 permission was granted to allow up to 73,000 ATMs (LPA ref. P/97/0826).
- 2.4 When the original planning permission was first granted in 1985 (ref. N/82/104), operating hours were restricted to 0630 to 2200 Mondays to Saturdays and 0900 to 2200 on Sundays and public holidays, with an exception being made in emergencies.
- 2.5 The 24-hour weekend closure was first introduced in 1998, when planning permission (LPA ref. N/97/0220¹) was approved to allow an increase in the permitted number of ATMs from 35,500 to 73,000 per year and an increase in ATMs at weekends (along with changes to daily ATM limits at weekends). The planning considerations in the Officers Report (prepared at that time by the Docklands Development Corporation) (CD7.9), explain the need for the opening hours to allow each aircraft 4 rotations² per working day and 2 per day at weekends so that the Airport could handle the forecast 3 million passengers at that time (Paragraphs 35-37). It is also evident that it was the Airport that offered to introduce a condition to exclude operations after 12.30 on a Saturday in the context of an increase in weekend movements from 40 to 120 per day (and no more than 220 on any successive Saturday and Sunday).
- 2.6 I note that it has been 25 years since that permission was granted and the context and what is now proposed at the Airport have changed considerably. As I explain in the following sections of my evidence, the proposed changes to opening hours are accompanied by commitments to only allow quieter new generation aircraft to operate during those hours and the Proposed Amendments will bring significant economic, consumer and other benefits.
- 2.7 In July 2009, LBN granted planning permission (LPA ref. 07/01510/VAR) to allow up to 120,000 annual aircraft movements (subject to the operation of noise factored movements and daily and other limits) (“the 2009 Permission”). The Section 106 Agreement (the “2009 Planning Agreement”) accompanying the 2009 Permission superseded a number of previous agreements and, together with the consolidated planning conditions attached to the 2009

¹ That application was determined by London Docklands Development Corporation or LDDC with LBN being a consultee and giving it a reference P/97/0826

² A flight from a home airport to a destination and back

Permission, controlled the operation of the existing Airport from a planning perspective prior to the implementation of the CADP1 Permission in 2017 (at which point the CADP1 Permission, and the accompanying S106 Agreement became the primary means of control).

City Airport Development Programme (CADP1) Permission

- 2.8 The CADP1 Permission or “Parent Permission” was granted by the Secretary of State for Transport and the Secretary of State for Communities and Local Government in July 2016 following an appeal and public inquiry which was held in March 2016. In the decision letter dated 26 July 2016 (CD7.8) the Secretaries of State concluded as follows:

“26. The Secretaries of State have weighed the adverse environmental impacts they have identified, to which they give moderate weight, against the significant benefits in terms of employment and increased economic activity, improved passenger experience and environment, the securing of finance for training and local employment, allowing the Airport to increase its flights within its permitted level and increase in the likelihood of flights being made by more efficient modern aircraft, to which they afford considerable weight. For the reasons given, they therefore conclude that the significant socio-economic and employment benefits that would result from the proposal would outweigh the harm that they have identified due to increased noise and conflict with FALP policies regarding the use of the Docks, when taking account of the controls and mitigation that would be provided under planning conditions and the S106 Agreement. They also conclude, for the reasons set out above, that the proposal would represent sustainable development in accordance with the Framework. For the reasons given above they conclude that the appeal should be allowed, and planning permission granted.”

- 2.9 The decision permitted the comprehensive upgrade of the infrastructure and passenger facilities at the Airport. It permitted up to 111,000 ATMs per calendar year and for the first time included a cap on passenger numbers of 6.5 million annually. Along with the accompanying S106 agreement (CD12.1) the permission provides a comprehensive set of planning controls for the CADP1 works and the operation of the Airport³.
- 2.10 Condition 2 of the CADP1 Permission 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 CADP1 Permission was implemented in 2017⁴ and it provides the principal operational controls and restrictions imposed on the Airport which 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

³ There have been four deeds of variations to the S106 agreement. The most recent was signed on 11 August 2022 (CD12.5) due to the pause in the construction program and the decline in passenger numbers as a result of the COVID 19 Pandemic.

⁴ 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. See Appendix 1 of the Planning Statement (CD1.5).

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 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 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. As explained in Chapter 3 of the ES (CD1.10), which accompanied the S73 Application, without the Proposed Amendments or in the Do Minimum 'DM scenario' construction would be delayed until the early 2030s and would be built out incrementally with completion expected to be around 2038. With the Proposed Amendments, Chapter 3 of the ES states that CADP1 construction works could be completed by 2031 (Development Case or "DCO scenario") to 2033 (Slower Growth Case Scenario).

Other relevant planning history

2.14 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 and need to remain in place longer than anticipated, following the unavoidable delays to the CADP1 project as a consequence of the COVID 19 pandemic. They enable the Temporary Goods-in Facility (GIF), Temporary Immigration Facility (TIF), Temporary Outbound Baggage Facility (TOBB),

temporary decked car park and temporary car rental building to stay in situ as well as the construction of a Temporary Gate Room pending the completion of CADP1.

- 2.15 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 (CD7.7) has not as yet been implemented, but remains extant, with reserved matters required to be submitted by 4 July 2024.

Airport Master Plan

- 2.16 The Airport published its master plan on 4 December 2020 (the “Master Plan”) (CD5.1) 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. The Master Plan looked to a longer timeframe than the Proposed Amendments and set out high level plans to:

- Grow and modernise – to up to 11 million passengers per annum (mppa) and 151,000 ATMs by the mid to late 2030s.
- Make best use of the existing runway and land within the existing airport boundary.
- Accelerate investment in new generation aircraft – with more flexibility in hours of operation (first and last half hours and more flexible times at weekends).
- Create new jobs – with 11 mppa the Airport could sustain 5,300 FTE jobs with an additional 700 indirect and induced jobs and £210 million GVA.
- Contribute to overall economic performance of London by £2 billion per year.
- Further improve sustainable transport to and from the Airport – targeting 90% of passenger journeys by sustainable modes by 2041.

- 2.17 In relation to opening hours, page 7 of the Master Plan states as follows:

“Airport operating hours: Recognising the concerns raised by many who responded to the consultation, we will maintain the eight-hour nighttime flight curfew. We also have no immediate plans to seek to extend the operating hours, either during the week or at weekends, however, we will keep this under review as the airport recovers from the impact of the COVID-19 pandemic. Should any future adjustments be proposed, these would be considered and consulted upon through the planning process before a decision is taken by the relevant authority.”

- 2.18 Consistent with that statement, the Airport has since reviewed its position taking into account market and airline requirements and concluded that extended opening hours were needed to meet the growth in demand. Prior to submission of the S73 Application for the Proposed Amendments the Airport undertook consultation on changes to opening hours and following further feedback scaled back what was proposed (as explained in section 3 of my Proof of Evidence or ‘PoE’).

The Surrounding Area

- 2.19 The Airport is located within the long-established regeneration area of the Royal Docks. The Airport began operating in May 1987 during the tenure of the London Dockland Development Corporation⁵ and the Royal Docks and wider area remains a focus for regeneration initiatives today.
- 2.20 The surrounding area remains one of the most deprived areas in the UK. Chapter 7 of the ES (Socio-economics – CD1.14) explains the current context in terms of deprivation and employment.
- 2.20.1 A large proportion of LBN falls within the top 30% most deprived areas in relation to income and employment. The Airport itself lies within an area that is amongst the 20% most deprived in the UK and is close to significant areas within the 10% most deprived areas with very high levels of deprivation (ES paragraph 7.5.35). This is shown graphically in Figure 2.1 of the Benefits and Mitigation Statement accompanying the S73 Application (CD1.66).
- 2.20.2 In 2019, there were 0.74 jobs per working age (16-64) residents in the LBN (and this fell slightly to 0.71 in 2020). The average in London in 2019 was 1.03 (0.99 in 2020) (ES paragraph 7.5.40). The latest data indicates that in 2021, there were 0.72 jobs per working age (16-64) residents in the Local Area⁶ – a slight increase from 0.71 in 2020. Across LBN there was also a slight increase from 0.55 in 2020 to 0.58 in 2021. Both are significantly below the average in London of 1.02 in 2021.
- 2.20.3 The number of unemployed benefit claimants in LBN was in line with the London average in 2019 (2.8%) but grew faster (by 122%) than the Local Area between July 2019 and July 2022 (ES paragraph 7.5.19). The latest available data from September 2023 shows that the proportion of benefit claimants has increased across London as a whole (5%) and is slightly higher in the Local Area (5.4%). The proportion of claimants in the LBN (6.8%) is higher than the Local Area and London averages.
- 2.21 As Louise Congdon's evidence explains, the Airport also sits in the East London priority area for Levelling Up, where four local authorities are in the highest priority category for levelling up (Newham, Barking & Dagenham, Hackney and Waltham Forest) and three in priority 2 (Havering, Redbridge and Tower Hamlets)⁷. The high priority is driven primarily by unemployment/lack of jobs – with five of the seven authorities cited in the top 20 for the highest unemployment with the Government responding with funding - £40m for Newham and £10m for Tower Hamlets in Round 1 of the Levelling Up Fund, and further allocations of between £11m and £19m for Barking and Dagenham, Hackney, Lewisham and Waltham Forest in Round 2.

⁵ Which was established to regenerate the wider docklands area and operated between 1981 and 1998

⁶ 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

⁷ CD3.2.4

2.22 As I explain in the next section of my evidence, the Airport sits within the Royal Docks and Beckton Riverside (RD + BR) Opportunity Area. Section 1.1 (page 17) of the Opportunity Area Planning Framework (CD3.10.1) or “OAPF” (2023) explains that the Opportunity Area is home to 1,000 businesses, provides 34,000 jobs and accounts for 30% of Newham’s economy. It also explains that 95,000 people live in the Opportunity Area with 22% of residents within the 10% most deprived wards in the country. The Executive Summary (page 11) of the OAPF explains that:

“The Royal Docks and Beckton Riverside Opportunity Area (RD+BR OA) is one of the largest regeneration areas in London, is at the centre of an expanding east London, and the Thames Gateway. There is the potential to share the benefits arising from change in the OA, across LB Newham, and London. The London Plan estimates an indicative capacity of 30,000 new homes, and 41,500 new jobs.”

2.23 I also note other relevant context from section 1.1 in the OAPF:

2.23.1 It is recognised that the Airport provides an *“important role for London in providing connections to many of Europe’s leading business hubs. Over 4.5 million passengers pass through the airport every year, and it is a key local employer with over 2,300 staff on site”*.

2.23.2 ExCeL is established as London’s largest international convention centre and estimated to support 25% of the city’s inbound business tourism, hosting over 400 events annually, attracting 40,000 exhibiting companies.

2.23.3 The Airport is seen as an anchor economic asset along with Tate & Lyle (T&L) and ExCeL of both regional and international importance.

2.24 As the OAPF notes, there has been rapid housing growth in the OAPF area with 4,084 residential approvals between 2019-21 and 3,086 completed over the same period. Growth has also taken place at Canary Wharf to the west (in the London Borough of Tower Hamlets) which has become established as a major employment location with significant housing growth on the Isle of Dogs. Noise and other assessments in the ES accompanying the S73 Application have taken into account these changes and also the future forecast changes in population near the Airport.

2.25 New housing and other development in the surrounding area has taken place in knowledge of the Airport and planning permissions for such development have included appropriate mitigation, including double glazing to mitigate noise impacts from the Airport. As an example, **Appendix 5** comprises extracts of the officer’s report for the large Gallions Quarter development to the north east of the Airport, where condition C64 was imposed to reflect that site’s location within the Airport’s 57db LAeq noise contour.

3. Planning Policy Overview

- 3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 (CD3.1.2) 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 Airport comprises:
- The London Plan – the Spatial Development Strategy for London (March 2021) (CD3.3.1);
 - Newham Local Plan (2018) (CD3.4.1); and
 - Local Plan Policies Map (2018) (CD3.4.2).
- 3.2 The relevant material considerations include:
- National Aviation Policy
 - National Noise Policy
 - National Economic Policy
 - The National Planning Policy Framework (NPPF) (2023) (CD3.2.1) and National Planning Practice Guidance (NPPG)

The Development Plan

- 3.3 **Policy S1** (Spatial Strategy and Strategic Framework) of the **Newham Local Plan** (CD3.4.1) sets out the overarching approach and seeks transformational changes whilst making the best of use of existing assets, delivering high-density, mixed-use development, promoting a shift towards sustainable travel modes and enabling the borough to achieve sustainable development.
- 3.4 The Airport is located within the Royal Docks where **Policy S3** states that the Strategic Principles are for it to become a unique and high quality waterfront mixed use urban quarter, with a target of at least 8,404 new homes and significant numbers of the Borough's jobs growth, with the Docks continuing to perform a growing economic role in conference, tourism and other sectors and stating that it *"..will be a world class business centre and an international forum for the exchange of knowledge and ideas."*
- 3.5 The Newham Local Plan and Policy S3 were adopted after the CADP1 Permission had been granted. **Policy S3** recognises the importance of the Airport as an employment hub and sets out support for the 'optimisation of existing capacity' and states that:
- ".... London City Airport will continue to perform an important role in the area's international business and visitor connectivity and as the focus to an employment hub with measures implemented to support the optimisation of existing capacity and further mitigation of its environmental impacts, including improvements to public transport." [My Emphasis].*
- 3.6 **Paragraph 1.23** of the supporting text within the Local Plan goes on to explain the reasoning:

“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.”

- 3.7 The Royal Docks sit within the Newham Local Plan’s identified “Arc of Opportunity” area (see Key Diagram, Figure 1.2) and there is policy support for economic growth. **Policy S1** states that 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. More specifically the Airport is allocated as an ‘Employment Hub’ (ref. **policy 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. **Policy J3** (Skills and Access to Employment) sets out strategic principles to enable more Newham residents to share in wealth associated with the expanding economy and seeks to reduce barriers to work and enhance employability, with supporting text in **paragraph 3.36** noting that Newham is the 23rd most deprived Borough in England with multiple indicators showing serious employment and skills challenges.
- 3.8 Newham Local Plan **Policy SP2** (Healthy Neighbourhoods) and **Policy SP8** (ensuring Neighbourly Development) are cited as reasons for refusal. **Policy SP2** requires development proposals to address strategic principles and the spatial strategy, with **criterion 1aiii** being of most relevance to the RfR1 stating as follows: *“The needs 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 H1-4, SC1 and SP3”*.
- 3.9 In relation to **Policy SP8**, I come on to consider whether the Proposed Amendments comply with **criteria 1a to d** in respect of Strategic Principles and the Spatial Strategy which includes requirements relating to neighbourliness. **Criterion 2axi** is also relevant to the RfR1 and requires development to promote neighbourliness through *“Avoiding unacceptable exposure to light (including light spillage), odour, dust, noise, disturbance, vibration, radiation and other amenity or health impacting pollutants in accordance with Policy SP2”*. Specific reference is made in the supporting text to the Airport in the context of the ‘agent of change’ principle (**paragraphs 2.102 and 2.113**), with reference made to existing operators acting reasonably.
- 3.10 **Policy D13** (Agent of Change) of the **London Plan** (CD3.3.1) is the first policy which is cited in RfR1. **Criterion 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. **Criterion E** states that development proposals should not normally be permitted where they have not clearly demonstrated how noise and other nuisances will be mitigated and managed.
- 3.11 **Policy T8** (Aviation) is also cited in RfR1. I come on to consider the environmental criteria, which the Council rely upon in their justification for refusal. I note in principle that **Part A** of the policy states that the Mayor supports the role of airports serving London in enhancing the city’s spatial growth, particularly in Opportunity Areas well connected to airports by public transport (the Airport is within the Royal Docks and Beckton Opportunity Area). The supporting text

(paragraph 10.8.3) also states that it is important in the first instance to make best use of existing airport capacity.

Local Plan Review

- 3.12 LBN has commenced a local plan review and public consultation on the Issues and Options document took place between October and December 2021. As confirmed in the Council's Statement of Case (paragraph 4.10) (CD10.2), very limited weight can be placed on policies in the draft plan. I have not therefore included consideration of the draft plan in my assessment.

Other Local Policy

- 3.13 In May 2023, shortly before the determination of the S73 Application by LBN, the Royal Docks and Beckton Riverside Opportunity Area Planning Framework ("OAPF") (CD3.10.1) was published jointly by the Mayor London, Transport for London (TfL) and LBN. Page 11 of the OAPF states that the Opportunity Area is one of the largest regeneration areas in London and is at the centre of expanding east London and the Thames Gateway, which the London Plan estimates has an indicative capacity of 30,000 new homes and 41,500 new jobs. Its stated purpose is to set out a 20-year planning strategy for the area.
- 3.14 Pages 12 and 23 refer to the Airport as a regional economic asset (along with Excel, UEL, Tate and Lyle and City Hall) and state that the planning system needs to balance and optimise the benefits of these assets as surrounding land uses change. The second paragraph also refers to these (except City Hall) as anchor economic assets of international importance which emerged due to the strength of the historic relatively isolated location in the Docks and which the Agent of Change principle places the responsibility of mitigating impacts from existing noise and other nuisance-generating activities and uses on the proposed new noise sensitive development.
- 3.15 As I come on to explain, the S106 obligations have been specifically targeted at the issues identified in the OAPF, including the lack of smaller open spaces closer to the Airport (page 84), the potential to create a better front door to the Airport and provide public space (page 167) and the need to improve links between the Opportunity Area assets (page 100). The OAPF also notes that the Airport already forms a key part of delivering education and apprenticeship schemes (page 124).

National Aviation Policy

- 3.16 A full summary of aviation policy is provided in the evidence of Louise Congdon. The Climate Change Topic Paper at Appendix 2 of my Proof (APP/3/B/2) also provides an overview of aviation policy in respect of that topic. I set out a high-level overview below.

Aviation Policy Framework (March 2013) (CD3.5.1)

- 3.17 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.

3.18 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.

3.19 Paragraph 3.3 of the APF refers to striking a balance and sharing benefits:

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

Airports National Policy Statement (ANPS) (June 2018) (CD3.5.2)

3.20 The ANPS is principally concerned with a third runway at Heathrow, but parts are relevant to the determination of the Proposed Amendments. 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. In relation to decision making for proposals at Heathrow it states that 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 (paragraph 5.82). In my view, the same approach applies to other airports, and I come on to consider this further in later sections of my evidence.

Beyond the Horizon - The Future of UK Aviation: Making best use of existing runways ("MBU") (June 2018) (CD3.5.3)

3.21 This policy document was published at the same time as the ANPS and sets Government policy for the expansion of airports other than Heathrow. Beyond the Horizon (or "MBU") includes a section on the 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). 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. 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."

3.22 MBU makes it clear that airports proposing planning applications through the Town and Country Planning Act 1990 route need to demonstrate how they will mitigate against local environmental issues, taking into account relevant national policies including the Aviation Strategy (paragraph 1.26). Paragraph 1.12 states that the Aviation Strategy (i.e., national policy) would be used to tackle aviation carbon. This is also clear from paragraph 1.11 which states as follows:

“There are, however, some important environmental elements which should be considered at a national level. The government recognises that airports making the best use of their existing runways could lead to increased air traffic which could increase carbon emissions.”

Flightpath to the Future’ (‘FttF’), May 2022 (CD3.5.6)

3.23 FttF is described as the strategic framework of the aviation. It reinforces the significant weight that should be given to MBU (and the ANPS) which are described as having full effect as material considerations and state that ‘*our existing policy frameworks for airport planning provide a robust and balanced frameworks for airports to grow sustainably within our strict environmental criteria*’.

3.24 The document (pages 9 to 11) includes a 10-point plan which have a direct or indirect interaction with planning (which I have underlined below):

1. “Recover, learn lessons from the pandemic and sustainably grow the sector - including to committing to growth and working together towards a future where the sector can recover, grow and thrive in a way that is sustainable, resilient and connected.”
2. *Enhance the UK’s global aviation impact and leadership.*
3. Support growth in airport capacity where is justified, ensuring that capacity is used in a way that delivers for the UK.
4. Put the sector on course to achieve Jet Zero by 2050 – with specific targets for 10% SAF by 2030 and zero emissions flights across the UK this decade.
5. Capture the potential of new technology and uses – including routinely using new aircraft to provide new and improved low carbon services.
6. Unlock local benefits and levelling up - including through trade, air freight, aerospace, investment and tourism as wells as allowing people to benefit from improved connections across the union and regions.
7. *Unleash the potential for next generation professionals.*
8. *Make the UK the best place in the world for General Aviation.*
9. *Improve the consumer experience.*
10. *Retain our world leading record on security and safety with a world leading regulator.”*

3.25 Conditional support for growth and expansion is therefore clear and this is also evident throughout FttF, including:

3.25.1 Page 2 (Ministerial Foreword) which refers to supporting airport expansion where it's justified *"to boost our global economy and level up the UK, but also committing to a much greener future"*.

3.25.2 Page 7 (Realising the benefits for the UK) – makes reference to existing policy frameworks for airport planning providing a robust and balanced framework for airports to grow sustainably within strict environmental criteria.

3.25.3 Page 18 states that *"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"*.

3.25.4 Page 26 (Support growth in airport capacity where it is justified) provides a clear statement that airports play a critical role in boosting both global and domestic connectivity and levelling up in the UK and that airport expansion plays a key role in this; the Government is still supportive of expansion where it can be delivered within the UK's environmental obligations.

3.25.5 Page 69 (Conclusions) notes the Government's continued commitments to the sustainable growth in the aviation sector and its vital economic importance to the UK.

3.26 Page 42 also recognises the essential role that aviation plays in delivering a wide range of benefits for the UK and supporting the Government's levelling up agenda, including essential connectivity across the whole of the UK.

3.27 In supporting growth "where it is justified", page 26 of FttF makes it clear that *"The Government is supportive of airports bringing forward expansion plans by way of our existing policy frameworks for airport planning"¹³.*

Jet Zero Strategy 'JZS' (July 2022) (CD3.5.7)

3.28 This document sets out the Government's decarbonisation goals for the Aviation Sector. Paragraph 1.2 states that the Government is *"...committing the UK aviation sector to reach net zero or Jet Zero by 2050"*. It goes on to explain that the Strategy is based on a 'High Ambition' scenario which sees aviation CO2 emissions peak in 2019 (paragraph 1.10). The Jet Zero Strategy (JZS) sets an earlier target for UK domestic flights to reach net zero by 2040 (paragraph 1.3), mandates 10% use of Sustainable Aviation Fuels (SAF) (paragraph 3.5) and explains how the Strategy will be reviewed every five years and adapt the approach based on progress made (paragraph 1.4).

3.29 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."

3.30 There is also specific reference to Airports surface access strategies, stating that the Government will work with airports and stakeholders to help airports to improve their surface access strategies (page 73).

3.31 JZS also makes it clear that the Government continues to support sustainable airport growth where this is justified and can be delivered within environmental obligations. I note that the Government's high ambition strategy is explained to be deliverable on the basis of the Emissions Trading Schemes (ETS) and Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) and specifically rules out direct demand management measures.⁸ The Strategy itself (paragraph 3.57) states that:

"Our approach to sustainable growth is supported by our analysis (set out in the supporting analytical document) which shows that we can achieve Jet Zero without the Government needing to intervene directly to limit aviation growth. The analysis uses updated airport capacity assumptions consistent with the latest known expansion plans at airports in the UK. The analysis indicates that it is possible for the potential carbon emissions resulting from these expansion schemes to be accommodated within the planned trajectory for achieving net zero emissions by 2050, and consequently that our planning policy frameworks remain compatible with the UK's climate change obligations." [My Emphasis]

3.32 It is explained that the analysis uses updated airport capacity assumptions and shows it is possible for carbon emissions to be accommodated within the planned trajectory (paragraph 3.57). It concludes that *"Our analysis shows that it is possible to achieve our goals without the need to restrict people's freedom to fly"* (page 74).

3.33 A "Jet Zero dataset" was published at the same time as the Jet Zero Strategy and included a table headed 'Air Transport Movement (ATM) and terminal passenger capacity assumptions by Airport' (extracts are provided in the Climate Change Topic Paper). For London City Airport, it states that its capacity is assumed to grow from 111,000 ATMs and 6.5 million passengers in 2019 to 151,000 ATMs and 11 million passengers respectively by 2030 beyond. It also shows growth assumptions for other London Airports, including Heathrow, Gatwick, Stansted and Luton. The footnote to the table explains that these growth assumptions have been used for all Jet Zero scenarios, but stresses that they do not represent proposals for future capacity growth nor maximum appropriate levels of capacity.

3.34 As page 60 explains, "we are setting the trajectory on an in-sector basis, using our 'High ambition' scenario which will include interim targets of 35.4 MtCO₂e in 2030, 28.4 MtCO₂e in 2040, and 19.3 MtCO₂e in 2050." Support for growth at airports, whilst achieving emission reductions, can also be found elsewhere in the strategy as follows:

"We will also continue to support sustainable airport growth where it is justified ... It is right that we support the sector to recover from COVID-19 whilst putting in place the framework to ensure the sector reduces its emissions over time." (paragraph 2.27)

"We will support airport growth where it can be delivered within our environmental obligations." (paragraph 3.61, page 74)

⁸ Pages 48 and 49 of 'Jet Zero Consultation: Summary of responses and government responses', July 2022

- 3.35 In March 2023, the Government responded to the Climate Change Committee's (CCC) recommendation in its 2022 Progress Report (CD3.9.19), that there should be no net increase in airport capacity until there was demonstrable evidence that the carbon commitments were being met. At paragraph 197, the Government stated its position as follows:

"We remain committed to growth in the aviation sector where it is justified. Our analysis in the Jet Zero Strategy shows that the sector can achieve net zero carbon emissions from aviation without the government needing to intervene directly to limit aviation growth. Our scenarios show that we can achieve our targets by focusing on new fuels, technology, and carbon markets and removals with knock-on economic and social benefits. Our 'high ambition' scenario has residual emissions of 19 MtCO₂e in 2050, Airport growth has a key role to play in boosting our global connectivity and levelling up in the UK. Our existing policy frameworks for airport planning provide a robust and balanced framework for airports to grow sustainably within our strict environmental criteria. We do not, therefore, consider restrictions on airport growth to be a necessary measure."

- 3.36 Although the CCC reiterated this position in its June 2023 report the Government's October 2023 response to the CCC, clearly reaffirms its position as follows on page 46: *"Our analysis in the Jet Zero Strategy continues to demonstrate that the sector can achieve net zero carbon emissions by 2050 without the government needing to intervene directly to limit aviation growth. The analysis uses updated airport capacity assumptions consistent with the latest known expansion plans at airports in the UK. Planning decision-makers and applicants should consider all relevant Government policy, including the Jet Zero Strategy, when considering airport expansion proposals."* (CD3.9.23)

- 3.37 Case law and appeal decisions help to re-affirm the principles of the Government's approach to climate change and aviation. In *Jennifer Dawes v the Secretary of State for Transport Department and others*⁹ (CD8.7) relating to Manston Airport, Mr Justice Dove noted the following:

"99. The defendant and the interested party submit that the measures which were set out in JZS were coherent and accompanied by the provision for five-year review and annual monitoring in relation to progress against the relevant targets. Part of the JZS included the engagement of the UK Emissions Trading Scheme and CORSIA, as well as the range of other initiatives to ensure reductions in greenhouse gas emissions in the aviation sector. Against that background the defendant was perfectly entitled to rely upon those newly adopted policies as a justification for his conclusion that there would be an acceleration of decarbonisation in the aviation sector so as to ensure that the targets for that sector and the legislated carbon budgets could be met without the direct limitation of aviation demand"

- 3.38 In the recent Luton Airport decision for an uplift in its passenger cap to 19 million passengers¹⁰, the Secretaries of State concluded as follows in their 13 October 2023 decision letter (CD8.6):

"22. For the reasons given in IR15.70-15.74, the Secretaries of State agree with the Panel that the UK Emissions Trading Scheme and carbon offsetting and reduction scheme for international aviation (CORSIA) regimes provide the separate pollution control regimes which

⁹ [2023] EWHC 2352 (Admin)

¹⁰ Ref. APP/B0230/V/22/3296455

the NPPF assumes will operate effectively (IR15.71), and that the evidence does not suggest the proposal would either harm the implementation or trajectory of the Jet Zero Strategy, nor that the proposal could not operate within its approach (IR15.74)."

National Noise Policy

3.39 A full summary of noise policy is provided in the evidence of Richard Greer, and I set out a high-level overview below.

Noise Policy Statement for England (2010) (NPSE) (CD3.7.2)

3.40 National policy on noise is set out in the Noise Policy Statement for England (2010) (NPSE) which aims to avoid, minimise, mitigate and, where possible, reduce significant adverse impacts on health and quality of life within the context of sustainable development.

3.41 With specific regard to aviation noise, the NPPG¹¹ (CD3.7.7) 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.

3.42 MBU recognises that the development of airports can have negative as well as positive local impacts, including on noise levels. It notes that, as airports look to make the best use of their existing runways, it is important that communities surrounding those airports share in the economic benefits, and that adverse impacts such as noise are mitigated where possible.

3.43 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; and*
- where possible contribute to the improvement of health and quality of life."*

3.44 As the Explanatory Note to the NPSE makes clear, such aims are to be considered in the context of Government policy on sustainable development. The NPSE itself explains: -

"2.7...the application of the NPSE should enable noise to be considered alongside other relevant issues and not to be considered in isolation. In the past, the wider benefits of a particular policy, development or other activity may not have been given adequate weight when assessing the noise implications."

3.45 The NPPG (CD3.7.7) 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:

"Can noise override other planning concerns?"

¹¹ Paragraph: 014 Reference ID: 30-014-20190722, Revision date 22 7 2019

It can, where justified, although 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)”

- 3.46 The NPPG also cross refers to the APF in respect of how airport operators should mitigate the environmental impacts of airport expansion and states that airport operators are encouraged to work with LPA to develop mitigation measures that are proportionate to the scale of impact (013 Reference ID: 30-013-2019072).

Overarching Aviation Noise Policy Statement (2023) (OANPS) (CD3.7.3)

- 3.47 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 stated that:

“The Government’s overall policy on aviation noise is to balance the economic and consumer benefits of aviation against their social and health implications in line with the International Civil Aviation Organisation’s Balanced Approach to Aircraft Noise Management. This should 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.”

- 3.48 By way of further explanation, the Government states that:

“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.”

National Economic Policy

- 3.49 A full summary of national economic policy and how initiatives have been targeted at the local area is provided in the evidence of Louise Congdon and I set out a high-level summary below.
- 3.50 As noted above, LBN is in the highest priority category for levelling up due to the acute need for regeneration and economic growth and has already received funding through the Levelling Up Fund.
- 3.51 Levelling up is a key part of the Government's Build Back Better strategy. Levelling up seeks to improve the economic prospects and productivity of all underperforming parts of the country. The Levelling Up White Paper (CD3.2.3) recognises that disparities in the performance of areas within cities can be just as great as disparities between regions and seeks to address economic underperformance wherever it arises: *“Even in high productivity cities, such as London, there are areas with low productivity”*. FttF states that airport expansion has a key

role to play in realising benefits for the UK through boosting global connectivity and levelling up (page 7).

National Planning Policy

- 3.52 The NPPF (CD3.2.1) (at paragraph 11) establishes a presumption in favour of sustainable development. Sustainable development is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs.
- 3.53 Paragraph 8 sets out the overarching economic objective of a *“strong, responsive and competitive economy”* which is to be achieved by *“ensuring that sufficient land of the right type is available in the right place and at the right time to support growth, innovation and improved productivity”*. The second objective is *“to support strong, vibrant and healthy communities.”*
- 3.54 Paragraphs 81 and 83 of the NPPF are also relevant. These require policies and decisions to create the conditions for businesses to invest and expand, support economic growth and allow areas to build on their strengths. Paragraph 81 requires significant weight to be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
- 3.55 In terms of noise, paragraph 185 of the NPPF requires planning decisions to ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. To do so, consistent with the NPSE which it cross refers to, is a requirement to *“a) mitigate and reduce to a minimum potential adverse impact resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life”* (paragraph 185).
- 3.56 More detailed consideration of noise policy and guidance is provided in Richard Greer’s Proof of Evidence, which I draw upon as appropriate but avoid repeating within my Proof of Evidence.

Summary

- 3.57 Local and national planning policies are supportive of growth and making best use of the existing runway at London City Airport subject to environmental considerations. MBU and FttF state that the Government is supportive of airports beyond Heathrow making best use of their existing runways. There is no requirement in national aviation policy for individual planning applications for development, such as London City Airport, to demonstrate need for their proposed development and associated flights and passengers.
- 3.58 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. The area surrounding the Airport is a priority for regeneration and with Levelling Up policy and funding seeking to target multiple deprivation and employment issues.
- 3.59 In terms of noise and other local environmental effects, National Policy (MBU) requires adverse impacts to be mitigated where possible (paragraph 1.22). Specifically in respect of aviation noise, the OANPS requires impacts to be mitigated as much as is practicable to do so, limiting

and where possible reducing, the total adverse impacts on health and quality of life. Where there is an increase in total adverse effects, social and health implications need to be balanced against economic and consumer benefits. Benefits of airport growth must also be shared with communities from a noise perspective (APF) and in terms of economic benefits (MBU and OANPS).

- 3.60 Local Policies require new noise and nuisance to be mitigated and managed, environmental and health impacts to be fully acknowledged and mitigation to fully meet external and environmental costs. There is a requirement to avoid unacceptable exposure to noise and to improve health and employment levels whilst attending to the environmental impacts of economic development.
- 3.61 National policy recognises that aviation needs to play its part to address the climate change crisis and the Government's Jet Zero Strategy provides a framework for doing so within an overall carbon budget identified and a suite of measures to achieve it including emissions trading. As LBN noted in its determination of the S73 Application (OR233), this needs to be considered at a national rather than local level as part of the determination of individual planning applications.
- 3.62 I come on to consider whether the Proposed Amendments meet these policy tests in later sections of my Proof of Evidence.

4. Overview of the Proposed Amendments

- 4.1 A detailed description of the Proposed Amendments and planning process up to determination are provided in the SOCG with LBN (CD11.2).
- 4.2 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 for a further 6 hours until 1830 on Saturday afternoons (and an hour later during the 'Summer Season'¹²); increase the number of flights allowed in the first half hour of operations (0630-0659) from 6 to 9; and increase the passenger cap from 6.5 to 9 million passengers per annum.
- 4.3 Passenger and air transport movement forecasts accompanied the S73 Application and were used in the assessments contained in the Environmental Statement which accompanied the S73 Application. For robustness, they included core, faster and slower growth forecasts, with the Core Development Case (DC) forecasting 111,000 ATMs and 9 million passengers by 2031 compared to 84,985 ATMs and 6.5 million passengers without the Proposed Amendments in a without development Do Minimum (DM) scenario.
- 4.4 Appendix 2 of the Planning Statement (CD1.5) submitted with the S73 Application sets out the required changes to the planning conditions. Table 3.1 below summarises the proposed changes to conditions 17, 23, 25 and 26 of the CADP1 Permission relating to revisions to operating hours (*with the changes highlighted in **bold***). There are also related changes to aircraft maintenance (condition 8) and terminal opening hours (condition 42) to align with later opening on Saturday afternoons.
- 4.5 As section 11 of Richard Greer's evidence explains, typically there would be around 80 aircraft movements on a Saturday afternoon or around 6 aircraft 'noise events' an hour at receptor locations, so one every 10 minutes. Richard Greer explains that in practice this would not be experienced at each receptor location because many of the people affected by aircraft noise from the Airport are only overflowed by either westerly or easterly operations, not both. For those who are only overflowed by westerly operations, this occurs around 70% of the time on average, representing around 30 additional hours per week without flights. For those who are only overflowed by easterly operations, this only occurs around 30% of the time on average, representing around an additional 70 hours per week without flights.

¹²Defined as British Summer Time (BST), during which as part of the Proposed Amendments it is proposed that the Airport will be allowed up to 12 additional arrivals between 1830 and 1930 on Saturdays.

Table 4.1 Daily Opening Restrictions: Existing and Proposed

Day	Existing		Proposed	
	Hours (duration)	Restrictions	Hours (duration)	Restrictions
Monday	0630-2200 [#] (15.5 hours)	6 flights between 0630 to 0659 / 2 between 0630 to 0645 592 daily flight cap	0630-2200 (15.5 hours)	9 flights between 0630 to 0659 / 4 between 0630 to 0645 592 daily flight cap
Tuesday	0630-2200 [#] (15.5 hours)	6 flights between 0630 to 0659 / 2 between 0630 to 0645 592 daily flight cap	0630-2200 (15.5 hours)	9 flights between 0630 to 0659 / 4 between 0630 to 0645 592 daily flight cap
Wednesday	0630-2200 [#] (15.5 hours)	6 flights between 0630 to 0659 / 2 between 0630 to 0645 592 daily flight cap	0630-2200 (15.5 hours)	9 flights between 0630 to 0659 / 4 between 0630 to 0645 592 daily flight cap
Thursday	0630-2200 [#] (15.5 hours)	6 flights between 0630 to 0659 / 2 between 0630 to 0645 592 daily flight cap	0630-2200 (15.5 hours)	9 flights between 0630 to 0659 / 4 between 0630 to 0645 592 daily flight cap
Friday	0630-2200 [#] (15.5 hours)	6 flights between 0630 to 0659 / 2 between 0630 to 0645 592 flight cap	0630-2200 (15.5 hours)	9 flights between 0630 to 0659 / 4 between 0630 to 0645 592 daily flight cap
Saturday	0630-1230 [#] (6 hours)	6 flights 0630 & 0659 / 2 between 0630/0645 100 daily flight cap*	0630-1830 (12 hours)~	9 flights between 0630 to 0659 / 4 between 0630 to 0645 230 daily flight cap*
Sunday	1230-2200 [#] (9.5 hours)	200 daily flight cap*	1230-2200 [#] (9.5 hours)	200 daily flight cap*
Bank & Public Holidays (closed Christmas Day)	0900-2200 (13 hours)	132 cap on 1 January; 164 cap on Good Friday; 198 cap on Easter Monday; 248 cap on the May Day Holiday; 230 cap on the late May Bank Holiday; 230 cap on the late August Bank Holiday; 100 cap on 26 December		132 cap on 1 January; 164 cap on Good Friday; 198 cap on Easter Monday; 248 cap on the May Day Holiday; 230 cap on the late May Bank Holiday; 230 cap on the late August Bank Holiday; 100 cap on 26 December

* Condition 23 also requires the number of flights to not exceed 280 on consecutive Saturdays and Sundays/it is proposed to raise this to **400**

Condition 17 also allows 400 movements (150 in any 3 consecutive months) to half an hour after later for flights suffering unavoidable delays

~ with up to 12 additional arrivals permitted between 1830 and 1930 in the 'Summer Season'.

4.6 Recognising the importance of mitigation, the Airport put forward various measures when it submitted the S73 Application for the Proposed Amendments and, as I will come on to explain, these include the following planning conditions/S106 obligations:

- Only cleaner, quieter 'new generation'¹³ aircraft will be permitted to fly in any extended hours and additional slots.
- A commitment to a Carbon and Climate Change Action Plan (CCCAP) – to reduce carbon from Scope 1, 2 and, where possible, 3 emissions (I explain this further in later sections of my PoE).
- A significantly enhanced Sound Insulation Scheme ('SIS') to further mitigate the impact of aircraft noise on neighbouring communities.

¹³ New generation aircraft comprise aircraft such as the Embraer-E2 family or Airbus A220 series aircraft, which are cleaner, quieter and more fuel efficient than much of the existing fleet at the Airport.

- An improved Community Fund, to target investment in public spaces and the community more generally close to the Airport and overflowed by aircraft.
- An updated Travel Plan for staff and passengers and a newly created Sustainable Transport Fund to maintain and enhance the Airport's position as the UK's best performing Airport for sustainable transport use by passengers, with a target of 80% by 2030.
- Commitment of an additional £1.9 million to fund employment training and assisting getting people back to work.

Application process

- 4.7 Prior to submitting the S73 Application, the Airport entered into a Project Planning Performance Agreement with LBN. Pursuant to the agreement it 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.
- 4.8 Pre-application meetings were also held with the Greater London Authority (GLA), Transport for London (TfL) and the Environment Agency (EA).
- 4.9 Prior to finalising the S73 Application, the Airport undertook public consultation between 1 July 2022 and 9 September 2022. In response to feedback received as part of the public consultation, the Airport made a number of changes to its proposals. In the consultation material, the Airport suggested operating on Saturdays like any other weekday, with flights operating until 2200 (and delayed flights operating until 2230) and suggested 6 additional flights in the first 30 minutes of operations each morning. Whilst the changes were supported by airlines, passengers and business/industry, concerns were expressed by residents. Accordingly, to adopt a balanced approach the Airport revised the proposals, as shown in the table below, to keep Saturday evenings free of flights for residents whilst also giving airlines enough time to serve a wider range of destinations and create conditions to incentivise them to invest in new generation aircraft.

Table 4.2 Changes to proposed opening hours following consultation

Proposals Consulted upon	S73 Application
Saturday opening until 2200	Saturday opening until 1830 (1930 for up to 12 arrivals during the Summer Season)
6 additional aircraft movements (resulting in a total of 12 aircraft movements) between 0630 and 0659	3 additional aircraft movements (resulting in a total of 9 aircraft movements) between 0630 and 0659
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

- 4.10 Following the submission of the S73 Application on 19 December 2022, the Council's stated deadline for the receipt of consultation responses was 19 March 2023. However, on 27 February 2023, some three weeks before the end of the consultation period and prior to the conclusion of any technical assessment by Newham officers and their Consultant Team, 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."*
- 4.11 Table 3.1 of the LBN SOCG (CD11.2) records the consultation responses received from statutory consultees, businesses and other organisations once the S73 Application had been submitted. I note that neighbouring local authorities, MPs, councillors and organised opposition groups (such as HACAN East) were generally against the Proposed Amendments, whilst business organisations (such as Canary Wharf Group, London Chamber of Commerce and Business LDN), local businesses (including Excel), businesses based at the Airport and the airlines were supportive.
- 4.12 During the determination of the S73 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 S73 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' (CD4.5.10).
 - Review of Noise and Vibration Aspect of Environmental, Rupert Thornely Taylor 'Draft Noise Review' (CD4.5.8).
 - London City Airport: Review of Need Statement document dated April 2023 commissioned by the Council from Chris Smith Aviation Consultancy Limited ("CSACL Report") (CD4.5.9).
- 4.13 The Airport provided a detailed response to LBN's 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.

- 4.14 Table 15.1 of LUC's June 2023 Final Report included a summary of the issues raised and whether the Airport's response had satisfactorily addressed clarifications/requests. This confirmed 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. 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).
- 4.15 On 10 July 2023, LBN's Strategic Development Committee resolved to refuse the S73 Application. In so doing, it accepted LBN Officers' recommendation and adopted two reasons for refusal (CD4.4.1). The recommendation to refuse the S73 Application was also subject to referral to the Mayor of London, whose Stage 2 Report (dated 20 July 2023) (CD4.5.5) confirmed that he was satisfied that there was no sound reason to intervene in the case, thereby allowing LBN to determine the S73 Application in line with the Committee's resolution.
- 4.16 In determining the S73 Application and adopting the two reasons for refusal, LBN was satisfied that the Proposed Amendments did not give rise to any other impacts that would justify the refusal of the S73 Application. This includes the following:
- 4.16.1 Transport and travel – The Officer's Report (CD4.3.1) ("OR") explains that the Council's transport department consider that the proposals could be effectively mitigated (OR201). The OR also cites TFL's consultation response in which it advised that the modal shift that would be achieved in connection with the Proposed Amendments would be more consistent with policy than the parent permission (OR202).
 - 4.16.2 Air quality – The OR explains that the air quality impacts from the Proposed Amendments would not be materially greater than those considered acceptable in the parent permission and would therefore on balance be acceptable (OR129).
 - 4.16.3 Carbon emissions, climate change and energy strategy – The OR explains that carbon emission from non-aviation sources are not considered significant compared to the extant permission and, whilst increased emissions from aircraft is undesirable, local land use planning decisions are not the appropriate regulatory means by which carbon emissions should be managed (OR231-233).

5. Rationale for and Benefits of the Proposed Amendments

- 5.1 The Proposed Amendments will enable the Airport to handle up to 9 million passengers per year. The changes to opening hours will allow the Airport to operate for an additional 6 hours on a Saturday (with an additional hour for up to 12 arrivals during the Summer Season) and permit 3 additional flights in the first half hour of morning operations¹⁴.
- 5.2 The growth in passenger numbers to 9 million will meet expected future levels of demand within the Airport's catchment area and is consistent with Government forecasts including the latest Jet Zero assumptions (which assumes up to 11 million passengers at the Airport) that take into account carbon costs (see Section 4 of Louise Congdon's evidence).
- 5.3 In this section of my evidence, drawing on the evidence of Louise Congdon, I explain the rationale and benefits of the Proposed Amendments including the additional opening hours.

Saturday Afternoon Opening

- 5.4 Louise Congdon explains that the Proposed Amendments will allow the airlines to grow their route network, increasing frequencies of service to existing destinations and services to new destinations. The Proposed Amendments will also allow better connections to hubs, such as Amsterdam, to provide onward connections to global points facilitated by Saturday afternoon operations.
- 5.5 Saturdays are particularly important for leisure travel. As Louise Congdon explains, the current Saturday opening hours limit the ability of airlines to make outbound and return flights, particularly to/from more distant popular leisure destinations in Europe. The extended operating hours on a Saturday will also help to reduce the current inefficiency in terms of aircraft utilisation arising from having to park aircraft for 24 hours over a weekend or to position the aircraft away from the Airport in order to operate from other airports without restricted operating hours.
- 5.6 Extending operations until 1830 on Saturday would still result in a much shorter day in comparison to weekday operations and would also result in less than half the permissible number of flights (230 compared with 592 for a weekday). The Airport would also be closed for up to 18 hours until 1230 on Sundays. Importantly, the 6 hour extension would enable airlines to get out and back to leisure destinations from the Airport rather than parking up their aircraft or flying to operate from other airports.

Early Morning Operations

- 5.7 Louise Congdon's evidence explains that current restrictions mean that aircraft based at the Airport have to delay their first departure thereby wasting valuable flying time and aircraft utilisation. Current restrictions, therefore, act as a disincentive to base more aircraft at the

¹⁴ 9 instead of 6 between 0630 and 0659 with 4 instead of 2 between 0630 and 0645

Airport and also precludes inbound flights from being scheduled. The proposed changes will allow airlines to offer increased outbound destinations, connections to hub airports and, because the airlines can only use new generation aircraft for the additional movements in this period, will also act as an incentive to re-fleet to new generation aircraft more quickly.

New Generation Aircraft

- 5.8 Over time aircraft have become more efficient with improved environmental performance. This is recognised in national aviation policy¹⁵ and recently in the Luton Airport 19 mppa decision¹⁶.
- 5.9 Table 8-7 of the ES (New Generation Aircraft Noise Compared to Embraer E190) shows the noise level differences between the most common current aircraft type at the Airport, the Embraer E190, and new generation aircraft which are expected to replace them during the time horizon of the Proposed Amendments (to 2031). It shows that the newer Airbus A220 series and Embraer E190/195 E2 are between 2.0 and 3.2 SEL dB(A) quieter on arrivals and 4.0 to 5.4 SEL dB(A) quieter on departures. I understand that this data was based on the noise monitoring terminals (NMT) close to the airport and for the period 2019-2021. Table 5.2 of Richard Greer's evidence explains that a change of 3-5.9dB outdoors would be considered a Medium impact rating and would therefore represent a material benefit in noise terms.
- 5.10 In the baseline year (2019) the Embraer E190 was the most common aircraft type at the Airport with Table 8.3.10 of the ES (relating to modelling Summer Daytime Aircraft Movements) showing that it comprised circa 57% of the fleet mix. I have extracted data from this table which underpins the noise modelling and Table 5.1 below shows the forecast accelerated re-fleeting as a result of the Proposed Amendments. This illustrates how with the Proposed Amendments (the DC scenario) the 'New Gen' aircraft represent over 75% of the fleet (compared to 54% without the Proposed Amendments (DM scenario)).

Table 5.1 Fleet mix assumption used in modelling (source ES Table 8.3.10)

	2019 Actual (%total)	2031DM (%total)	2031DC (%total)
E190	11,919 (57%)	6,216 (26%)	4,396 (16%)
E190-E2 (New Gen)	0	9,196 (38%)	13,377 (47%)
E195-E2 (New Gen)	0	2,495 (8.3%)	6,192 (22%)
Airbus A220-100 (New Gen)	543 (2.6%)	1,260 (5.2%)	1,786 (6.3%)

NB figures for other types of aircraft have been omitted.

- 5.11 The increased proportion of quieter new generation aircraft reflects the proposal to only allow the additional aircraft flying in the 0630-0659 early morning period and the Saturday afternoon period beyond 1230 to be these new generation aircraft¹⁷.
- 5.12 Louise Congdon's evidence explains that limiting the use of these new periods to new generation aircraft creates a strong incentive for airlines to re-fleet so they can access the additional operating hours and slots. As Louise Congdon explains, without the greater

¹⁵ E.g., JZS page 28 (CD3.5.7)

¹⁶ (CD8.6) IR15.14 and 15.15

¹⁷ Proposed Condition 101 has been agreed in principle with LBN and includes noise standards which the current generation E190 would not be capable of meeting.

operational flexibility provided by the Proposed Amendments, based airlines would simply have no incentive to re-fleet at the Airport any earlier than their 'natural cycle' of fleet replacement. That would delay the benefits of quieter aircraft and result in more flights on noisier aircraft such as the E190 for longer.

Benefits

5.13 London City Airport is already a major employer with 2,310 people employed on site at the Airport, or 2,060 full time equivalent, in 2019. Louise Congdon's evidence sets out the direct and indirect benefits in terms of Gross Value Added (GVA) and supply chain employment with 3,250 operational jobs supported in 2019 in London. Louise Congdon estimates in addition the Airport generated a further 3,760 FTE further jobs and £631 million GVA in 2019 from enhanced business productivity and inbound tourism.

5.14 The Proposed Amendments will help to support an important sector of the economy which has many economic and societal benefits. National policy makes it clear that the benefits of aviation are very substantial and proposals that enhance these benefits should be given very significant weight in planning terms. This is evident throughout FttF (CD3.5.6), where page 7 makes it clear that:

“Aviation also has a central role in delivering local benefits across the UK. This includes championing the levelling up agenda, strengthening union connectivity, boosting economic success, and supporting local jobs. It is important to recognise the role our extensive airport, airfield and aviation infrastructure network plays in providing benefits to local communities, as well as supporting associated supply chains and the aerospace industry”.

5.15 It goes on to explain that airport expansion has a key role to play in realising benefits for the UK through boosting global connectivity and levelling up. Page 19 of FttF explains that enhancing global connectivity and including making both the UK more accessible to visitors and making the rest of the world more accessible to people living in the UK is important. It also notes that in 2019, 41 million visitors came to the UK, spending £28.4 billion and that the UK was the tenth most visited country in the world and travel is the UK's third largest export.

5.16 The importance of the Airport locally is clear from the London Plan. **Policy T8** (CD3.3.1) supports the role of airports in enhancing the city's spatial growth, particularly within Opportunity Areas, through making best use of existing capacity. The Newham Local Plan (CD3.4.1) also recognises the importance of the Airport with **Policy S3** stating that *“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;”*

5.17 The benefits that arise from the Proposed Amendments align with the objectives in national and local policies and these are set out in the evidence of Louise Congdon, which I now summarise.

Employment and Economic benefits

- 5.18 Section 6 of Louise Congdon's evidence sets out in detail the economic benefits of the Proposed Amendments. These were not challenged during the determination of the S73 Application by LBN and are, in my opinion, substantial. As set out in tables 6.4 to 6.9 of Louise Congdon's evidence they include:
- 5.18.1 An additional 2,180 jobs (1,900 Full Time Equivalent) in London compared to the 2019 position or 1,910 (1,660 Full time equivalent) compared to the DM scenario.
 - 5.18.2 A net (additional) GVA of £249 million in London compared to the 2019 position or £175 million compared to the DM scenario.
 - 5.18.3 The Airport's impact on the London economy from wider economic impacts from increased business productivity will increase to £526 million in GVA and 2,050 jobs (1,740 FTE). Compared to the DM scenario this is an increase of 380 jobs (320 FTE) and £96 million in GVA.
 - 5.18.4 Wider economic impacts for London from inbound tourism increasing to £559 million in GVA and 4,900 jobs (3,890 FTE). Compared to the DM scenario this is an increase of 1,800 jobs (1,110 FTE) and £96 million in GVA.
 - 5.18.5 Social welfare benefits from factors such as passenger surface access time savings, which total £371 million.
 - 5.18.6 The acceleration of the construction programme for the already approved CADP1 infrastructure and passenger facilities.
- 5.19 I note that these benefits would be delivered in a location which has long standing multiple deprivation and employment challenges (see Section 2 of my Proof of Evidence), something both the Development Plan and the Government's Levelling Up Fund is seeking to address. As explained in Section 3 of my Proof of Evidence, national policy requires significant weight to be given to economic impacts (NPPF paragraph 81) with aviation seen as having a central role in delivering local benefits across the UK, including championing the levelling up agenda, boosting economic success and supporting local jobs (FtF Page 7). As I come on to explain in section 8 of my Proof of Evidence, further commitments to employment and training initiatives will ensure that these are as fully realised as possible.

Consumer benefits

- 5.20 Section 5 of Louise Congdon's evidence sets out the main benefits to users of the Airport from the Proposed Amendments including:
- 5.20.1 Enabling flights to more destinations - operating later on a Saturday will enable the airlines to operate to more places, particularly leisure destinations that are further away, such as Alicante, Malaga and Palma, as well as enabling a wider range of leisure destinations to be served, such as Cagliari, Lanzarote, Split, Tenerife and Zakynthos. It is also explained how there will also be opportunities to offer a broader range of services to city and domestic destinations, improving the level of service offered to passengers within the catchment area of the Airport.

5.20.2 Connecting to hub airports thereby providing more choice and the opportunity for cheaper fares; the additional operating hours will allow passengers to make a wider array of onward connections from their local airport on a Saturday to meet late afternoon and evening departures from larger hub airports. Louise Congdon's evidence notes that airlines such as KLM and SWISS typically charge less for flights via a European hub than would be charged for direct services from a London airport, particularly Heathrow. This is expected to be particularly attractive to leisure passengers living in the vicinity of the airport who are likely to prefer such connections compared to a more expensive direct flight using Heathrow or Gatwick.

5.20.3 Improving the efficiency of operations to incentivise airlines to re-fleet and grow, so as to be able to deliver a broader range of services.

5.21 Having set out the what the Proposed Amendments comprise and why and the benefits they will bring, I now come on to consider whether the Proposed Amendments comply with planning policy in respect of noise (the only outstanding reason for refusal).

6. Compliance with Development Plan and other policies relating to Noise and Disturbance

- 6.1 In this section of my evidence, I consider whether the changes to aircraft noise and embedded mitigation associated with the Proposed Amendments are in accordance with the development plan policies on noise and disturbance cited in RfR1, drawing on the expert evidence of Richard Greer. I will also consider here whether the development is in accordance with other national policies on noise and disturbance. In doing so, it is important to recognise that:
- The remaining reason for refusal is only concerned with the additional morning and Saturday flights not the principle of the growth at the Airport nor other overall noise impacts. I note for instance the LBN SOCG confirms agreement that *'Allowing for the proposed mitigation the effects on the overall daytime noise are not considered significant except that LBN does not agree the conclusion regarding the significance of the loss of the Saturday afternoon curfew.'* (page 26).
 - There is significant agreement about the methods, noise indices and modelling outputs on noise in the ES as recorded in table 9.1 of the LBN SOCG.
- 6.2 In Section 7 below I will consider whether the development is in accordance with Development Plan policies on other topics and in Section 9 below I will set out my conclusions on whether the Proposed Amendments are in accordance with the Development Plan taken as a whole and draw my overall planning balance.
- 6.3 The overall noise impacts of the Proposed Amendments are set out in Section 8 of the ES that accompanied the S73 Application (CD1.15) and are also summarised in Sections 7 to 9 of Richard Greer's evidence. In summary, the Proposed Amendments would generate less noise overall than the 2019 baseline position, but more than the DM scenario in 2031¹⁸. The change in opening hours will mean that noise from aircraft will be experienced for a longer period on a Saturday (an additional 6 or 7 hours), though this would be less than Saturday mornings and weekdays, and there would be more noise from aircraft compared to the DM scenario in the first half hour of operations due to allowing an additional 3 flights in this period.
- 6.4 As I explain in Section 8, these changes need to be considered in the context of existing noise controls and mitigation including the Noise Management and Mitigation Strategy ('NOMMS') and the Airport's Sound Insulation Scheme ("SIS") which are proposed to be enhanced for residential occupiers.

¹⁸ Whilst there is a higher proportion of quieter new generation aircraft with the development, this is counterbalanced by more overall aircraft movements in the DC scenario.

The Development Plan

London Plan Policy D13 (Agent of Change) (CD3.3.1)

- 6.5 Criterion C of **Policy D13** 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. Criterion E states that development proposals should not normally be permitted where they have not clearly demonstrated how noise and other nuisances will be mitigated and managed.
- 6.6 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. The Proposed Amendments will not, therefore, introduce new noise and nuisance generating development. Indeed, large numbers of new dwellings have been constructed close to what is an existing international airport in the full knowledge of its existence and, where appropriate, have been constructed with enhanced noise insulation to mitigate any impacts from aircraft noise. The Airport's SIS has been in operation for many years and is available to those likely to be significantly adversely affected by aircraft noise but who do not already have effective mitigation in place (typically double glazing).
- 6.7 As Richard Greer explains, the ES concludes that there are no new or materially different operational noise effects due to the Proposed Amendments. Whilst there are some increases in operational aircraft noise levels, these increases are considered negligible or minor adverse and not significant. Drawing on Section 7 of Richard Greer's evidence, I note that he concludes the following in respect of air noise:
- 6.7.1 Due to the greater use of quieter new generation aircraft by 2031, the number of people adversely affected by daytime noise is reduced compared to 2019.
- 6.7.2 Due to the proposed increase in early morning movements, which is not fully offset by the improvement to aircraft noise emission levels, night time noise levels are forecast to increase by 2031 with the Proposed Amendments. Whilst 70 people in 20 properties on Camel Road are forecast to become exposed to night time noise levels above the SOAEL, these people have already been treated by the SIS, avoiding any significant effect.
- 6.7.3 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 and more movements. Furthermore, more people are forecast to experience a decrease in weekend noise levels than are forecast to experience an increase, with all of the changes in weekend noise forecast to be negligible.
- 6.7.4 Whilst there are 6 more outdoor amenity areas exposed to the noise levels equal to or above the threshold of 55dB LAeq 16h, all the changes in noise at these receptors would be less than 3dB and are not rated as significant.

- 6.8 Changes to opening hours on Saturday afternoon have been reduced following consultation. As explained in Section 4 of my evidence, a balanced approach was taken between managing the periods when residents would be affected and providing sufficiently long periods to allow airlines to deliver economic and consumer benefits by investing in new aircraft.
- 6.9 Richard Greer's evidence explains how Saturday afternoon aircraft noise will be quieter than a Saturday morning, and Saturdays mornings as well as Sunday afternoons/evenings will be quieter than a weekday. This means that the existing SIS, which already successfully mitigates aircraft noise, will also be effective for the additional opening hours on Saturday afternoon or the three additional movements in the early mornings. Improvements to the SIS (which I describe in section 8 of my Proof of Evidence) will also benefit those affected throughout the week. Accordingly, consistent with the policy, noise from aircraft will be mitigated and managed.
- 6.10 Criterion B of **Policy D13** suggests 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."* In my view, this applies to the Airport in its many roles including as a major employer, catalyst for the regeneration of East London and as a transport gateway to the UK.

London Plan Policy T8 (Aviation) (CD3.3.1)

- 6.11 Part B of **Policy T8** 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.
- 6.12 Whilst this is adopted policy, it is not specific about how the policy aims are intended to be achieved or what the implications are for decisions making. The ambiguity in the policy was recognised by the panel examining the draft version of the London Plan, with paragraph 579 of the October 2019 Panel Report (CD3.3.3) raising concerns as follows:

579. Part C states that the aviation industry should fully meet its external and environmental costs particularly in respect of noise, air quality and climate change. However, it does not specify how this objective is intended to be achieved, or what the implications are for local plans and planning decisions in London. Part C also refers to schemes being appropriately assessed, overriding public interest, and suitable alternative solutions. It is unclear whether this is intended to be a summary of the statutory environmental assessment process, or to introduce some other requirement.

- 6.13 Given such concerns, in my view it is important to be cautious about how this policy is applied and weight should also be put on the tests in national policy (see below). Notwithstanding such concerns, I consider that the Proposed Amendments comply with the policy from a noise perspective. The noise impacts have been fully acknowledged, with the ES undertaking a comprehensive assessment¹⁹ of the likely significant environmental effects and included

¹⁹ As part of the S73 Application process, the ES was closely scrutinised by the LBNs consultants led by LUC who concluded that there was no requirement for further Environmental Information pursuant to Regulation 25 of the EIA Regulations

assessments of the full range of noise metrics and reached an overall conclusion that there are no new or materially different significant noise impacts.

6.14 Richard Greer does not consider that local social surveys are required to fully understand impacts/attitudes, noting their unreliability, and he considers that existing metrics recently confirmed in CAA guidance based on regional surveys and judgements allow conclusions to be drawn about the significance of impacts, including those relating to the new operating periods.

6.15 LBN's Statement of Case (paragraph 5.9) (CD10.2) states that the reduction in the curfew period (referred to as 'respite') would be negative and result in material harm to residential amenity because there would be a new and currently non-existent noise source. However, LBN has not explained why it considers this to be case, only that in principle it is not acceptable. Richard Greer's evidence (Section 11) demonstrates why any adverse impacts of air noise are limited. It is explained that, because activity on a Saturday afternoon at the Airport is less busy than a typical weekday or Saturday morning, noise levels would be lower than a Sunday afternoon/evening and any potential difference in effect due to reducing Saturday curfew²⁰. It is also explained that accelerated re-fleeting (which is incentivised by additional opening hours) means that noise throughout the week would be less than the 2019 baseline. Section 11 of Richard Greer's evidence also explains that:

6.15.1 Government and professional practice guidance makes no distinction between Saturday afternoons, weekends or weekdays. I am also not aware of any planning policy that makes this distinction.

6.15.2 People whose indoor environments could be affected by air noise from the Airport are eligible under the SIS and will benefit from the enhanced SIS, ensuring that any significant adverse impacts on health and quality of life inside residential receptors are avoided and adverse effects are mitigated and minimised.

6.15.3 Where there is increased use of outdoor space on a Saturday afternoon, for example outdoor social gathering and recreational sport, these activities are likely to be also taking place on Saturday morning and any disturbance would be additional rather than new. As Richard Greer notes, such spaces are also used at other times of the week and weekend. Notwithstanding this, the new Community Fund will provide the opportunity for further investment in outdoor amenity areas and in the local community more widely.

6.15.4 Education facilities are not generally used on a Saturday and there is unlikely to be difference in the use of healthcare facilities.

6.16 In terms of Part E of **Policy T8** (which requires proposals to take full account of the environmental impacts and views of affected communities) this appears to be the main concern put forward by LBN to justify its conclusion that the loss of the Saturday afternoon curfew would result in a significant effect²¹. I recognise that consultation responses need to be taken into

²⁰ Comparisons are set out in table 11.1 of Richard Greer's evidence and, for instance, show that averaged noise at receptors on a Saturday afternoon is between 3 and 4db quieter than a Sunday afternoon /evening and 4 to 5db quieter than a weekday.

²¹ LBN Statement of Case paragraph 5.8

account in the determination of all planning applications and London Plan **Policy T8** seeks to ensure that they are given some status in policy. However, planning decisions need to be based on a proper analysis of the issues and not determined solely on the basis of how many adverse consultation responses have been received. The evidence of Richard Greer provides quantitative and qualitative analysis demonstrating the limited environmental impacts/harms consistent with **Policy T8**, particularly when enhanced noise mitigation is in place. In my experience, many planning applications attract significant numbers of objections but are still approved taking into account the balance of planning considerations and this must apply in this case. I give moderate weight to the objections received, alongside environmental impacts in the final section of my evidence, but do not consider that they outweigh the substantial benefits of the Proposed Amendments. Furthermore, in terms of the overriding public interest referred to in **Policy T8**, the Proposed Amendments:

6.16.1 Make best use of existing airport capacity which is directly consistent with national aviation policy and criteria F of policy T8 itself and achieve passenger growth without the need to increase the ATM cap;

6.16.2 Will deliver substantial economic benefits in a London Plan Opportunity Area which is identified as for employment growth and is home to some of the most deprived communities in the UK; and

6.16.3 Deliver significant consumer benefits from the increased frequency and choice of flights, which is required to be given significant positive weight by national policy.

6.17 In respect of there being suitable alternatives, without changes to the opening hours, there would not be the acceleration of re-fleeting and the benefits this brings in terms of enabling growth and economic and other benefits whilst limiting adverse effects of aviation noise. The consumer benefits would also be more limited.

Newham Local Plan Policy SP2 (Healthy Neighbourhoods) (CD3.4.1)

6.18 **Policy SP2** requires development proposals to address various strategic principles. The policy is couched in terms of the Council supporting health care partners with Part 1a(ii) being relevant to the Proposed Amendments and stating as follows: “*The need to improve employment levels and reduced poverty whilst attending to the environmental impacts of economic development including public safety, noise, vibration and odour.....*” The supporting text states that the policy should be implemented generally through the deployment of other policies including **Policy SP8**.

6.19 The policy recognises that employment and poverty, along with environmental impacts (including noise) are important factors for the delivery of healthy neighbourhoods. In section 5 of my Proof, I summarise the substantial economic benefits which will bring an additional 2,180 jobs, £249 million GVA of economic benefits through direct, indirect and induced impacts, as well as enhancing business productivity (£227 million in GVA and 700 jobs), generating income from inbound tourism (£227 million in GVA and 1,600 jobs) and providing social welfare benefits in a priority regeneration area. I have already explained how the noise impacts are not new and the harms limited in relation to **Policy T8** above. In relation to the impacts of the proposals on health overall which the policy seeks to address, the Health Topic Paper (**Appendix 3**) explains how the health impact assessment in the ES (CD1.19)

supporting the Proposed Amendments shows how the Proposed Amendments would have significant socio-economic benefits for population health.

- 6.20 There would be moderate beneficial (significant) population health effects (ES Chapter 12 sections 12.13, 12.14, 12.20 and 12.21). The LUC ES Review (CD4.5.10) on behalf of LBN indicates at Table 15.1 that no technical matters relating to socio-economics and health are listed as unresolved or requiring further clarification. LBN has not provided an alternate view to this conclusion either during the S73 Application discussions or in its Committee Report. Section 4 of the Health Topic Paper at Appendix 3 confirms that good quality employment and training opportunities will deliver significant moderate beneficial impacts which outweighs minor adverse (not significant) impacts on noise, physical activity and leisure and air quality.

Newham Local Plan Policy SP8 (Ensuring Neighbourly Development) (CD3.4.1)

- 6.21 **Policy SP8** criterion 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 supporting text (**paragraph 2.113**) makes specific reference to the Airport and to its presence close to high profile regeneration sites and for design etc to respond to noise, whilst also not allowing unfettered intensification of disturbance.
- 6.22 LBN's Statement of Case (paragraphs 5.12 to 5.15) states that the Proposed Amendments fail to comply with both policies SP2 and SP8 because the balance of benefits does not outweigh the negatives, with insufficient justification for the reduction in curfew particularly in light of the increased amount of residential development.
- 6.23 The Proposed Amendments will help to reduce overall noise at the Airport compared to the 2019 baseline, 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.
- 6.24 In my opinion, the adverse effects are clearly outweighed by the benefits. I return to this in the concluding section of my evidence. In terms of the adverse effects from the additional opening hours, as I explain in relation to compliance with **Policy T8** of the London Plan above, these are not new and are, in any event, limited. The economic and consumer benefits which I describe in Section 5 are substantial.

National Policy Tests

- 6.25 Section 10 of Richard Greer's evidence explains how the Proposed Amendments are in accordance with national policy on noise matters, including the comprehensive assessment undertaken using appropriate metrics, change criteria and the change in noise levels overall and at weekends are considered acceptable.
- 6.26 The changes to Saturday opening hours do not take place in a period which is defined in any policy document as particularly sensitive. As the evidence of Richard Greer explains, only the nighttime period (2300-0700) is given specific consideration by policy as a sensitive period.

- 6.27 Richard Greer also explains that there is no Government policy which requires, or even sets out an expectation for, curfews or bans on scheduled flights on a Saturday or any other day (noting the ANPS (paragraph 5.62) is the only policy to ban flights during any period – in that case night flights at Heathrow associated with the airport bringing forward a third runway). Richard Greer also explains that a “curfew” should not be confused with “respite” measures, which seek to reduce rather than eliminate overflights during certain periods.

Limiting and where possible reducing the adverse impacts

- 6.28 Richard Greer’s evidence (Section 10) explains how the three aims of the NPSE are met by the Proposed Amendments. In summary:

6.28.1 First Aim (avoid significant adverse effects) – as well as extensive existing controls which help to avoid significant effects (see section 8 of my Proof of Evidence), this is met by the intermediate and particularly the higher tiers of the SIS which offers sound insulation where levels of exposure are above the SOAEL.

6.28.2 Second Aim (Mitigate and Minimise) – this is explained to be met by the existing NOMMS and commitment to only permit quieter new generation aircraft to operate in the extended opening hours.

6.28.3 Third Aim (Improve noise where possible) – this is met as evidenced by the forecast reduction in the 57 dB average summer daytime noise levels by the time the Airport reaches 9 mppa. Compared with 2019, the area of the noise contour would reduce by 17% and by 20% compared with the current contour cap.

Mitigating Impacts as much as is practicable to do so

- 6.29 As I explain in Section 8, the Proposed Amendments are accompanied by a significant enhanced mitigation package which builds on the extensive existing operational and noise controls and mitigation measures at the Airport. As Richard Greer explains, the existing and enhanced SIS will ensure that adverse aviation impacts are avoided for residential and other occupiers indoors. The new Community Fund will help to compensate for the limited adverse noise impacts which arise from the additional opening hours. This will be targeted at local publicly accessible spaces and other local initiatives. In my opinion, such measures together with additional controls limiting flights to new generation aircraft and reducing the noise contour (see below), are as much as could be practicably achieved and I am not aware that LBN or others are suggesting that the mitigation is not enough (their case being that they disagree with the principle of changing the opening hours).

Sharing benefits with the communities

- 6.30 Paragraph 3.12 of the APF (CD3.5.1) states that sharing the benefits of noise reduction with the industry is part of the Government’s overall policy on aviation noise to limit, and where possible, reduce the number of people in the UK significantly affected by aircraft noise. As paragraph 271 of the Bristol Airport decision (CD8.1) explains, the concept of sharing the benefits is set down by the APF but there is no guidance on how it should be calculated or assessed.

- 6.31 In terms of noise, there is a sharing of the benefits through balancing the loss of curfew on a Saturday and the increased number of flights in the early morning period, against an overall reduction in noise throughout the week, which has been accelerated by only allowing new generation quieter aircraft to operate during the extended Saturday opening and additional early morning slots.
- 6.32 Condition 33 of the CADP1 permission (CD2.7) imposes a 57dBL_{Aeq,16h} noise contour limit of 9.1km². The Proposed Amendments will result in a noise contour of 7.2km² equivalent to a 20% reduction in the permitted noise contour area. It is clear from this that, as fleet modernisation takes place, the noise benefits are being shared with the community. This reduction on contour area will be secured through the revised wording of the condition 33.
- 6.33 The Proposed Amendments will also enable the sharing of economic and consumer benefits, which in my view are substantial (see Section 5). The change in opening hours provides the airlines with opportunities for further growth and will encourage them to re-fleet more quickly, thereby helping to deliver greater benefits earlier. I come on to balance the economic and consumers benefits against the social and health implications associated with adverse noise impacts in section 9 of my evidence.
- 6.34 The Government's overall policy on aviation noise is to balance the economic and consumer benefits of aviation against their social and health implications. Taking into account the evidence of Richard Greer and Louise Congdon, the Proposed Amendments comply with this policy and other national policy requirements as follows:

NPPF Compliance (CD3.2.1)

- 6.35 Paragraph 185 of the NPPF states that decisions should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development and avoid noise giving rise to significant adverse impact on health and the quality of life. The NPPG (Noise) states as follows:

"..... It may be appropriate to consider, as part of any proposed mitigation strategy, how operational measures, siting and design of new taxiways, apron and runways, and ground-level noise attenuation measures could reduce noise impacts of expansion or increased utilisation to a minimum." (Paragraph:013 Reference ID: 30-013-20190722)

- 6.36 The Airport has a comprehensive suite of established noise mitigation measures, including its SIS and NOMMS (see Section 8 of my evidence) which ensure that its operations avoid and minimise potential noise impacts. The SIS will be enhanced as part of the Proposed Amendments and the Proposed Amendments will mean that fewer people will fall within the noise contours compared to 2019.

Conclusion on compliance with development plan and other policies relating to noise and disturbance

- 6.37 Taking into account the above, I consider that the proposals comply with the Development Plan in respect of noise policies cited in RfR1 and with national policy in respect of noise and disturbance.

7. Other topics

- 7.1 In this section of my evidence, I consider the Proposed Amendments in respect of other topics against the development plan and national planning policy. These are not reasons for refusal and have been included to respond to the matters raised in the Inspector's note following the CMC.

Air Quality

- 7.2 **Policy SI1** (Improving air quality) of the **London Plan** requires that development proposals do not lead to the further deterioration of existing poor quality air, do not create any new areas that exceed air quality limits (or delay the date of compliance) and do not create unacceptable risk of high levels of exposure to poor air quality and to this end requires development proposals to be at least Air Quality Neutral.
- 7.3 **Policy T8** of the London Plan states that environmental and health impacts of aviation must be fully acknowledged, that aviation-related development proposals should include mitigation which fully meets their external and environmental costs. In relation to air quality the supporting text (**paragraph 10.8.5**) goes further and states that as well as not worsening the position, expansion should not claim to utilise improvements from unrelated mayoral, local or national policies and airport expansion should also incorporate air quality positive principles to minimise operational and construction impacts. **Policy SC5** of the **Newham Local Plan** requires all development to be at least Air Quality Neutral, supporting a net decrease in specified pollutants.
- 7.4 Similar policy requirements can be found in the NPPF (paragraph 186) which states that planning policies and decisions should sustain and contribute towards compliance with relevant limit values and national objectives for pollutants, taking into account the presences of Air Quality Management Area (AQMA) etc.
- 7.5 Drawing on Chapter 9 of the ES (CD1.16), the Air Quality Topic Paper in **Appendix 1** of my evidence summarises the baseline conditions, air quality impacts and their significance and describes compliance with policy. Section 5 explains that, whilst the whole of LBN is designated at an AQMA, the Airport's monitoring network confirms that limit values/objectives are not currently exceeded in and around the Airport.
- 7.6 In relation to the policy requirement not to lead to the further deterioration of air quality, section 6 of the Topic Paper concludes that the operational air quality effects will not be significant, explaining that concentrations are predicted to be below the objectives/limit values for all future years assessed and the impacts with regard to the objectives/limit values are all negligible. It also concludes that there are no new or materially different effects from those identified for the CADP1 fallback (DM) scenario.
- 7.7 Section 7 of the Air Quality Topic Paper explains why the GLA were wrong to suggest that full compliance with Policy SI1 is not achieved due to the increase emissions, noting that these concerns are inconsistent with the approach taken elsewhere by the GLA.

- 7.8 The Air Quality Topic Paper also explains how the Proposed Amendments are consistent with the Air Quality Neutral approach, consistent with the London Plan and Newham Local Plan. It explains that requirements to not worsen air pollution beyond allowable benchmarks for buildings and transport will be achieved by:
- There being no emissions associated with the energy strategy which will be achieved through on-site plant and/or connections to a district heat network. This is a benefit compared to the CADP1 energy strategy (which used gas fired CHP); and
 - Trip generation from vehicles associated with the airport being less than the Transport Emission Benchmarks in the guidance.
- 7.9 In relation to the Air Quality Positive requirement referred to in the supporting text of **London Plan Policy T8**, the Topic Paper explains that an air quality positive statement was provided and cites the Stage 2 report from the Mayor of London which confirms that the GLA consider it meets this guidance²².
- 7.10 I note that during the determination of the S73 Application by LBN, the air quality impacts of the Proposed Amendments were closely scrutinised with various clarifications provided in response to comments from the Council's consultants, the GLA and other consultees. It is not a reason for refusal and the LBN Officers report ("OR") concluded, correctly, that impacts on air quality would not amount to a reason for refusal (OR122) and residual concerns about the approach to Ultra Fine Particles could be addressed (OR124-129). That position was taken in the knowledge of the Mayor of London's position (from the Stage 1 report); the Mayor of London did not seek to intervene on this or other matters and was satisfied for LBN to determine the S73 Application on the basis of the reasoning in the OR.

Highways

- 7.11 **Policy T8D** of the **London Plan** states that airport expansion should demonstrate how public transport and other surface access networks can accommodate increases in demand alongside forecast background growth and include credible plans for funding and delivery of required infrastructure. Amongst other things, paragraph 110 of the NPPF requires proposals to include appropriate opportunities to promote sustainable transport modes, provide suitable access for all users and address significant impacts on the transport network in a cost-effective way.
- 7.12 Chapter 10 of the ES (CD1.17) (Surface Transport) explains that more than half of the additional travel demand would occur outside of the weekday AM and PM peak period when the surrounding networks (including the DLR which serves the airport directly) have ample spare capacity, including on Saturday PM²³. As explained in Section 1 of my Proof, the note in **Appendix 4** explains how the surface transport analysis remains robust taking into account the latest guidance from the DfT and IEMA guidance.
- 7.13 Compared to CADP1 Permission, no changes are proposed to external highways access and no additional car parking is proposed. Table 10.13 of the ES provides a summary of the impacts on the highway network and shows slight negative or neutral impacts, with table 10.14

²² See paragraph 55 of the GLAs Stage 2 report (CD4.5.5.)

²³ See for instance Paragraphs 10.1.2 and 10.6.58.

concluding that there would be no significant impacts on the highway network in respect of severance, driver delay and pedestrian and cycle delay.

- 7.14 As set out in the LBN SOCG (CD11.2) (section 12), following engagement with LBN Transport and TfL, LBN are satisfied that impacts can be addressed through the use of conditions and S106 obligations. Table 12.1 of the LBN SOCG sets out how the parties have reached agreement in relation to the scope and outputs of assessments. In relation to highways, the modelling outputs section explains that detailed traffic modelling indicates some increases in traffic flows, but these are considered modest with no concerns identified in respect of about predicted free flowing traffic or delays.
- 7.15 A Framework Travel Plan accompanied the S73 Application and sets out the proposed longer-term mode share targets and high-level travel planning objectives covering the period 2025-2031 and a Sustainable Transport Fund of £2 million annually over seven years is proposed to contribute to initiatives that encourage walking, cycling and public transport usage. The LBN SOCG concludes that the parties agree that residual issues can reasonably be addressed via the use of conditions or S106 obligations. Against this background, I consider that the surface transport aspects of the Proposed Amendments are consistent with policies relating to highways and public transport.

Climate Change

- 7.16 The impact of the Proposed Amendments in terms of carbon emissions and climate change is not a reason for refusal, but has been raised by third parties, including HACAN East in its Statement of Case (CD10.3).
- 7.17 Chapter 11 of the ES (CD1.18) provides an assessment of the carbon emissions that would result from the Proposed Amendments and the significance of those emissions. The ES separately assesses aviation emissions on the one hand, and non-aviation emissions, arising from Airport activities, on the other. These emissions comprise Scope 1, 2 and 3 emissions. There is a difference in terms of the extent to which the Airport can control such emissions, as follows:
- Scope 1 (Direct Emissions): These are the Airport's operational emissions and arise from the day-to-day operation of the Airport e.g., from electricity and gas consumption from its terminal and office buildings and the use of its airside vehicles.
 - Scope 2 (Indirect Emissions): These include emissions are associated with the whole Airport's consumption of purchased electricity, heat, steam and cooling (including from tenants). These are indirect emissions that are a consequence of the Airport's activities. Whilst the Airport does not directly emit these emissions it can control them through its energy management and purchasing decisions.
 - Scope 3 (Indirect Emissions): These include emissions associated with the Airport but that occur from sources which are not owned or controlled by the Airport, the largest contributor being from aircraft in flight followed by passenger transport. These are indirect emissions; the airport can influence these emissions but not control them.
- 7.18 A detailed summary of the carbon emissions that would be generated by the Proposed Amendments is provided in section 3 of the Carbon and Climate Change Topic Paper provide in **Appendix 2** to this Proof of Evidence. The assessment compares the emissions that would

arise from the “development case” (DC) (with the Proposed Amendments) and the ‘do minimum’ case (DM) (i.e., the CADP1 permission without the Proposed Amendments) on the basis of three future scenario years, namely, 2027, 2031 and 2050. This calculation is carried out both for aviation emissions and non-aviation emissions.

7.19 For the purposes of my evidence, I note the following conclusions:

7.19.1 With regards to aviation emissions, the ES uses five tests of significance, which are set out in section 3 of the Carbon and Climate Change Topic Paper at Appendix 2. In summary, these involve comparing the carbon emissions that would be generated by the Proposed Amendments with (i) the ‘planning assumption’ that was taken into account when setting the Fourth and Fifth Carbon Budgets; (ii) the Sixth Carbon Budget; (iii) the DfT Jet Zero Strategy’s high ambition in sector trajectory; (iv) national policy to reduce aviation emissions to net zero by 2050; and (v) considering whether the increase in carbon emissions is so significant that it would have a material impact on the ability of Government to meet its carbon reduction targets, including carbon budgets. The last of these is the test noted in paragraph 5.82 of the ANPS (CD3.5.2).

7.19.2 This approach to assessing significance has been endorsed by the High Court in the context of the expansion of Bristol Airport (CD8.8) and Southampton Airport (CD8.10). In both cases, the Court endorsed the approach of comparing the projected carbon emissions to the Government’s carbon budgets and considering the impact of the development on the ability of the Government to meet its climate change targets (see paragraphs 114 – 115 of the Bristol Airport judgment and paragraphs 122 – 123 of the Southampton Airport judgment).

7.19.3 The conclusion reached in Chapter 11 of the ES in respect of aviation emissions is that the carbon emissions that would be generated by the Proposed Amendments (as compared to the DM scenario) would constitute a very small proportion of the ‘planning assumption’ (0.04% more than the ‘do minimum’ scenario in 2033 and 0.14% more than the ‘DM scenario in 2050) and the Sixth Carbon Budget (0.03% more than the DM scenario). The emissions generated would be consistent with the Jet Zero Strategy in-sector trajectory and the Jet Zero Strategy to reduce aviation emissions to net zero by 2050. In particular, the Jet Zero Strategy was based on the assumption of a number of airports expanding capacity, including London City Airport expanding to 11mppa by 2030. Based on these assessments, the increase in carbon emissions associated with the Proposed Amendments would not have a material impact on the ability of Government to meet its carbon reduction targets, including carbon budgets.

7.20 On the basis of these tests of significance, therefore, the aviation emissions from the Proposed Amendments are ‘not significant’ in EIA terms.

7.21 It is important to note in reaching these conclusions on significance regard has been had to the controls on aviation emissions that are imposed at a national level. The fact that aviation emissions are a matter for national policy is recognised at paragraph 1.11 and 1.19 of MBU. In particular, it is important that 99% of emissions (98% of flights) in the development case would be within the UK ETS, and therefore subject to the overall cap on emissions which cannot be exceeded. Furthermore, in ‘*Developing the UK Emissions Trading Scheme: Main Response*’ (June 2023) (CD3.9.3) the Government made clear its position in the Executive

Summary that *“When the UK Emissions Trading Scheme (UK ETS) was established in January 2021 our aim was to align it with the UK’s world leading net zero commitment. This document sets out the important structural changes to the scheme that will deliver on this goal.”* The remaining 2% of flights in the development case would be within CORSIA, the global scheme adopted by ICAO pursuant to which emissions from flights outside the UK ETS are offset. It is also relevant that the Government retains the ability to introduce additional measures in order to control aviation emissions should they be needed and is under a legal duty to ensure that the net zero carbon target and carbon budgets in the Climate Change Act 2008 is met. Indeed, in the Government’s recent response to the CCC’s Report on Climate Change (October 2023) (CD3.9.23), it has reiterated that the Jet Zero Strategy demonstrates how the sector can reach net zero without intervention to limit demand and that if the Government finds that the sector is not meeting its emission reductions trajectory, it will consider what further measures may be needed to ensure that net zero is met (page 171). The Government has made clear it will review the Strategy every five years.

- 7.22 With regards to non-aviation emissions, Table 11-19 of the ES shows that the Proposed Amendments would make no difference to Scope 1 and 2 emissions, when comparing the emissions generated by the Proposed Amendments with the ‘do minimum’ scenario. This is due to the Airport implementing measures to reduce carbon emissions, as set out in its outline Carbon and Climate Change Action Plan (CCCAP). The outline CCCAP was initially provided in Appendix 11.3 of the ES, but has since been updated. It explains how measures including a revised Energy Strategy (that includes investment in renewables, demand management and procuring electricity generated by renewable sources), carbon offsets and the operation of its travel plan would enable the Airport to meet the goals that it has set out in its Sustainability Roadmap which targets London City Airport becoming London’s first net zero emissions airport by 2030 (for its own operations).
- 7.23 In relation to the Energy Strategy (CD1.65), the officer’s report advised that: *“...the proposal would achieve a carbon saving of 46% which is above the 35% required by policy and an 11% betterment over the previously approved permission”* (OR235). The Energy Strategy submitted with the Proposed Amendments made significant improvements to move away from gas fired CHP (previously consented as part of the CADP1 works) to more sustainable solutions such as heat pumps and solar. These improvements, despite having already started to construct CADP1, ensure that the Proposed Amendments comply with the latest policy in guidance in the London Plan and Building Regulations. The OR goes on to note comments from GLA (which is the primary consultee in respect of energy matters) and states that outstanding matters could be addressed through an appropriate worded condition (OR239). Against this background the Proposed Amendments will respond very positively to the targets in the Jet Zero Strategy for airports to be zero emissions by 2040.
- 7.24 The impact of the Proposed Amendments both in terms of aviation and non-aviation emissions would therefore be ‘not significant’ in EIA terms.
- 7.25 Turning to the Development Plan, Policy T8B (Aviation) of the London Plan (CD3.3.1) states that environmental and health impacts of aviation must be fully acknowledged and development proposals should include mitigation measures that fully meet their external and environmental costs (including in respect of climate change).

- 7.26 As explained above, the ES has assessed in full the carbon emissions that would be generated by the Proposed Amendments, both in terms of aviation and non-aviation emissions. With regards to non-aviation emissions, the CCCAP secures measures to control GHG emissions for which the Airport has a direct or indirect control (Scope 1 and 2). As I explain above in relation to surface transport, commitments to enhanced public transport use (e.g. increasing passenger sustainable transport mode share targets from 75 to 80%) will also help minimise and mitigate Scope 3 emissions.
- 7.27 With regard to aviation emissions, the ES has calculated the increase in emissions that would result from the Proposed Amendments and used tests of significance that have been endorsed by the High Court as being appropriate. The conclusion reached is that the aviation emissions would be ‘not significant’ in EIA terms, in particular, as they would not impact on the ability of Government to meet its climate change targets. As recognised by the judgment of the High Court in the Bristol Airport case at paragraph 93 (CD8.8), granting permission would only be contrary to the Development Plan if the decision maker finds that the aviation emissions generated are likely to be such as to have a material impact on the Secretary of State's ability to meet his obligations under the CCA, including by means of carbon budgets. In the present case aviation emissions would not have such an effect and are ‘not significant’ in EIA terms.
- 7.28 National policy (in particular, MBU) recognises that aviation emissions are primarily a matter for national, and not local, control, and such control is exercised by Government through the UK ETS, CORSIA and such other measures as the Government may decide to deploy. Clearly such national measures, and the conclusion that the emissions are not significant in EIA terms, are material in determining whether the Proposed Amendments are consistent with Development Plan policy. On this basis, I consider that the Proposed Amendments are in accordance with policy T8 of the London Plan.
- 7.29 Indeed, a similar approach must apply to the Mayor’s carbon reduction targets as set out in the document “London Net Zero 2030: An Updated Pathway” (January 2022) (CD3.9.6). The Mayor’s ambitions do not form adopted policy. To the extent that the aviation emissions generated by the Proposed Amendments are ‘not significant’ (i.e. not material) on the basis of an application of tests of significance that have been endorsed by the Court as appropriate, they cannot be rendered ‘significant’ (and material) in planning terms by virtue of such non-statutory policy targets.
- 7.30 It is notable that HACAN East does not appear to dispute the calculation of either aviation or non-aviation emissions in the ES. The principal issues in dispute are whether or not there is compliance with the Development Plan as a result of the increase in aviation emissions from the Proposed Amendments, and secondly, whether or not the Proposed Amendments would otherwise have a significant impact on climate change, having regard to the reliance on new technologies to reduce emissions beyond 2031.
- 7.31 With regards to the first of these, as explained above, the aviation emissions are not significant in EIA terms, would not impact the ability of the Government to meet its carbon reduction targets, and therefore granting planning permission is not contrary to the development plan, including London Plan Policy T8.
- 7.32 Contrary to suggestions by HACAN East in its Statement of Case, the Appellant does not ‘rely’ upon particular technological advancements. The Government’s policies make it clear that

through the UK ETS and CORSIA, it will control the amount of emissions that can be generated by aviation. Therefore, in order for airlines to maintain and grow their business, they will have to adopt new technologies as a means of reducing aviation emissions.

Health

- 7.33 RfR1 does not identify health as a reason for refusal, although it does refer to a “substantially negative effect on residential amenity”. As recorded in the LBN SOCG (para 13.1) and OR284, the impact on public health is not considered to be significant by LBN. I agree with this position. Whilst various policies refer to health matters (e.g., **London Plan Policy D14** states that reducing, managing and mitigating noise is linked to improving health and quality of life), it is agreed that LBN’s concerns relate to amenity, not directly with health. Section 5 of the Health Topic Paper (**Appendix 3** to this Proof of Evidence) concludes that the Proposed Amendments are consistent with the policies cited in RfR1.
- 7.34 The Health Topic Paper summarises the conclusions of Chapter 12 of the ES (Public Health and Wellbeing) (CD1.19), with Section 5 explaining that there are no significant population health effects and that the effects on residential amenity are not significant from a health perspective. It explains that the socio-economic beneficial effects of the Proposed Amendments are agreed as significant for population health. This means that they must carry more weight than the adverse effects, which are agreed to be not significant. On this basis I conclude that this topic is positive in the planning balance, which I come on to consider in section 9 of my Proof of Evidence.

8. Conditions and S106 Obligations

- 8.1 RfR 2 states that in the absence of a deed of variation the S106 agreement would fail to secure benefits, financial contributions including mitigations related to employment, transport, air quality, sustainability and residential amenity. In its Statement of Case (CD10.2), LBN state that this reason for refusal will fall away upon the negotiation of an acceptable S106 agreement. Since lodging the appeal, agreement has been reached with LBN and TfL in respect of the relevant planning obligations to be imposed in relation to the Proposed Amendments (see Agreed Heads of Terms at (CD12.6)) and therefore this reason for refusal should fall away.
- 8.2 An understanding the proposed planning controls and mitigation helps to inform the acceptability of the Proposed Amendments against planning policy. Accordingly in this section of my evidence, I provide an overview of the changes to planning conditions and obligations which have been agreed in the event that planning permission is granted.

Existing Controls & Mitigation

- 8.3 The Airport already has a wide range of ways in which noise is controlled and mitigated through planning conditions and obligations attached to the CADP1 Permission. These are set out in Section 8.5 of Chapter 8 of the ES (CD1.15) and are summarised below (with those proposed to be modified by the Proposed Amendments identified with a ‘*’)
- a) **Aircraft movement limits*** (Conditions 22 to 27 of the CADP1 planning permission);
 - b) **Restrictions on airport operating hours*** (Conditions 8 and 17 of the CADP1 planning permission);
 - c) **Noise abatement departure and arrival procedures** (as defined by the Noise Management and Mitigation Strategy (**NOMMS**) that is secured by Conditions 31 of the CADP1 planning permission);
 - d) **Combined noise and track monitoring systems** (as defined by the NOMMS, secured by Conditions 30 and 31 of the CADP1 planning permission);
 - e) **Quiet operating procedures** (as defined by the **NOMMS**, secured by Conditions 31 of the CADP1 planning permission);
 - f) **Departure noise incentives and penalties scheme** including a fixed penalty for exceeding upper noise limits charged at a rate of £600 per dB of exceedance. The money from any penalties accrued is added to the Community Trust Fund;
 - g) **Ground noise controls**, including restrictions on the timing and noise levels of ground engine running and limitations on the use of Auxiliary Power Units (APUs) (Condition 8 of the CADP1 planning permission);

- h) **Noise contour area limits*** set by the Noise Contour Strategy that seeks to reduce the area of the noise contour by 2030 and every 5 years thereafter (Condition 33 of the CADP1 planning permission);
- i) **Quota Count (QC) limits** in accordance with the Aircraft Noise Categorisation Scheme (ANCS) (Conditions 18 and 19 of the CADP1 planning permission);
- j) **Airport perimeter noise barriers** (Conditions 53 and 54 8 of the CADP1 planning permission);
- k) **Sound Insulation Schemes (SIS)*** that is secured by the section 106 agreement for the CADP1 planning permission and is proposed to be enhanced as I will come to later in my evidence; and
- l) **Community Fund*** that is secured by the section 106 agreement for the CADP1 Permission. The fund is topped up by any penalties payable as part of the Incentives and Penalties scheme as explained below.

- 8.4 The NOMMS came into force on 18 August 2017 and was amended in March 2019. In 2022 it was subject to a further review, as required by Condition 31, and an update was submitted and approved by the LPA²⁴. The NOMMS includes details of current schemes in place to manage and monitor aircraft noise including those listed above.
- 8.5 The Aircraft Noise Categorisation Scheme (ANCS) was updated and approved by LBN in 2022 following a review as required by CADP1 Condition 19. The scheme uses manufacturers' independently assessed noise certification data to categorise each aircraft that uses the Airport, taking into account side-line, flyover and approach noise. The ANCS replaced the old Noise Factored Scheme and ensures that no noisier aircraft than currently operate at the Airport will be allowed to do so in the future and provides a more robust approach to categorising aircraft based on noise²⁵. It requires a quota count (QC) to be allocated to each aircraft based on certified noise levels. Performance against the quota budget is then calculated by multiplying the number of departures and arrivals by the respective QC score for each aircraft type, with a quota budget set at 22,000 per calendar year and 742.5 in a week.
- 8.6 In accordance with CADP1 Permission Condition 33 (Fixing the Size of the Noise Contour) (CD2.7) a Noise Contour Strategy was submitted to the LPA and approved in 2022²⁶. This defines the methods to be used by the Airport to reduce the area of the noise contour below the current limit of 9.1km² by 2030.
- 8.7 The Incentives and Penalties Scheme (IPS) is included as part of the NOMMS (CADP1 Condition 31) and includes: (i) incentives to encourage airlines to operate aircraft more quietly, rewarding those airlines with credits towards partnering the airport to deliver a Community Fund each year; and (ii) a fixed financial penalty of £600 (per decibel) for infringement of an

²⁴ 22/02035/AOD Noise Management and Mitigation Strategy (Condition 31)

²⁵ 22/00807/AOD Aircraft Noise Categorisation Scheme Review (Condition 19b) and 22/00807/AOD Aircraft Noise Categorisation Scheme Update (Condition 18e)

²⁶ 22/02528/AOD Noise Contour Strategy (Condition 33)

upper noise limit to penalise airlines producing departure noise above the expected range for an aircraft. All financial penalties are added to the Community Fund each year.

- 8.8 The existing Community Fund provides a minimum of £75,000 on an annual basis and distributed via a Board of Trustees to local not for profit organisations and charities. As explained in the Airports 2022 Annual Report (paragraph 2.4.3) (CD9.2):

“The Community Fund is a minimum of £75,000, made available on an annual basis and distributed via a Board of Trustees to local not for profit organisations and charities. Since inception in May 2019 nearly £364,000 has been granted, directly benefiting over 100 local charities and organisations in East London, including the 28 that were awarded funding in 2022”.

- 8.9 The CADP1 Permission enhanced the noise insulation scheme. In addition to the existing first and second tier SIS triggered at 57 and 66 dB LAeq 16hr respectively, it introduced the new 63dB LAeq 16hr tier and enhanced the mitigation available in the second tier so that the schemes are currently as follows:

- Tier 1 (57 dB LAeq 16hr contour) - existing single glazed properties that are eligible under the scheme are offered 100% of the cost for replacement standard thermal glazed windows or secondary glazing, whichever is preferred, together with acoustic ventilation.
- Intermediate Tier (63dB LAeq 16hr noise contour) - secondary glazing and acoustic vents or £3,000 towards high performance double glazing and acoustic vents.
- Tier 2 (66 dB LAeq 16hr contour) - an offer of improved secondary glazing or a 100% contribution towards high performance double glazing, together with acoustic ventilation.

Additional Controls and Mitigation with the Proposed Amendments

- 8.10 The noise mitigation has been tailored to the Proposed Amendments, particularly in respect of the changes to opening hours, and, in my view, responds to national and local policy requirements.
- 8.11 As proposed by draft condition 101 agreed with LBN, only quieter, new generation aircraft will be permitted to fly in any extended hours and additional slots. This will ensure that noise is limited during the additional periods and will accelerate the introduction of quieter aircraft. Table 8-7 of the ES (CD1.15) demonstrates that these aircraft are up to 3.2 SEL dB(A) quieter on arrival and 5.4 SEL dB(A) quieter on arrival close to the airport. Section 12 of Richard Greer’s evidence responds to comments from HACAN East about the claimed noise benefits partly further away from the Airport.
- 8.12 Paragraph 3.39 of the APF (CD3.5.1) encourages Airport Operators to review their noise compensation schemes *“when considering developments which result in an increase in noise.”*
- 8.13 Table 8.2 below summarises the proposed changes to the Airport’s SIS associated with the Proposed Amendments.

Table 8.2 Current and Proposed Air Noise SIS

Tier	Current SIS	Proposed enhanced SIS
First Tier* (called Low Tier in the ES Table 8-109)	Dwellings within the 57 dB LAeq,16h daytime contour Full cost of mechanical vents for all dwellings and full cost of secondary or standard double glazing where only single glazing is fitted.	Dwellings within the 57 dB LAeq,16h daytime contour Full cost of mechanical vents for all dwellings and full cost of secondary or standard double glazing where only single glazing is fitted.
Intermediate Tier* (called Middle Tier in the ES Table 8-109)	Dwellings within the 63 dB LAeq,16h daytime contour Full cost of secondary glazing and mechanical vents or a grant of £3,000 towards high acoustic performance double glazing.	Dwellings within the 63 dB LAeq,16h daytime or 60 dB LAeq,16h weekend contours. Daytime threshold to reduce to 60 dB LAeq,16h by 2031. Full cost of secondary glazing and mechanical vents or a contribution towards high acoustic performance double glazing based on the cost of fitting secondary glazing to the specific property.
Second Tier* (called High Tier in the ES Table 8-109)	Dwellings within the 66 dB LAeq,16h daytime contour Full cost of high acoustic performance double glazing and mechanical vents.	Dwellings within the 66 dB LAeq,16h daytime or 55 dB LAeq,8h night-time contours Full cost of high acoustic performance double glazing and mechanical vents.

* **Note:** the Tier names used here are those now used in the draft update to the s106 agreement as agreed with LBN and the other interested parties named in the draft agreement

- 8.14 The significantly enhanced residential SIS will feature a wider scope, including a lower noise threshold for eligibility in one of the categories of the Scheme, and a simplification of the process for obtaining works to enhance take up. These will enhance the effectiveness of the Scheme so that more residents affected by noise receive a higher specification of treatment to their homes.
- 8.15 Section 6 of Richard Greer's evidence explains the consistency of the approach with policy and precedent and with the changes tailored to the noise impacts of the Proposed Amendments and are intended to help address the low take up in the current Intermediate Tier, where the Airport would replace the fixed cash grant with an increased contribution towards high performance double glazing and also manage installation.
- 8.16 Significant enhancements are proposed to the Community Fund will see it increasing to £3.85million over 10 years. It will equate to £385,000 per annum compared to £75,000 currently. The enhanced fund is designed to target investment in amenity in areas and communities overflown by aircraft, taking into account the proposed changes to operating hours on a Saturday afternoon. Such funding will help to compensate local residents for additional overflying and associated noise and provides the opportunity to fund the provision of small open spaces and improved linkages near the Airport, as suggested in the RD + BR OAPF which I refer to in Section 3 of my evidence.
- 8.17 Against this background, I consider that the proposed noise controls and enhanced mitigation and compensation, consistent with local and national policies, mitigate and manage impacts as much as is practicable and reasonable to do so.

Employment

- 8.18 The CADP1 S106 (CD12.1) included obligations securing extensive contributions for education (£770,000) and employment initiatives (over £5 million) within Newham. The contributions which are paid to LBN are directly focussed to support skills, training and recruitment activity and create employment opportunities for Newham residents at the Airport as part of the CADP1 development.
- 8.19 The Airport is committed to ensuring that the potential benefits to Newham residents are maximised and not just through direct employment. The Proposed Amendments will further increase employment at the Airport and across Newham. It is therefore proposed to build on the ongoing investment in skills and training, with a further commitment of up to £1.9 million additional funding to LBN to support ongoing employment training and assistance in getting more local people into work at the Airport.
- 8.20 Despite agreeing that the Proposed Amendments would benefit job creation in Newham, LBN's Committee Report (CD4.3.1) "lessens the weight" (OR para 103) that can be attributed to the planning balance of the Airport's recent track record in meeting its S106 targets for Newham based "new recruits" not being met. In my opinion, the approach is flawed as it overlooks the enormous impact that the Covid-19 pandemic had on the aviation industry. As is evident from the table on page 47 of the OR, the Airport rebounded very strongly in 2022 when the Airport achieved 83% jobs recruited from the Local Area (as defined⁶) (against a 70% target) and 39% of jobs recruited were from the London Borough of Newham (against a target of 50% for the Airport operator and 40% for other onsite employers). It is proposed to maintain the aspirational target of 50% of new recruits from Newham consistent with Policy J3 of the Newham Local Plan and in my view, these measures combined with the significant increase in the number of jobs and other economic benefits weigh strongly in favour of the Proposed Amendments.

Transport

- 8.21 As explained in Section 7 of my evidence, whilst the Proposed Amendments would lead to additional passengers at weekends and, in the longer term, during the week as passenger numbers exceed the current passenger cap of 6.5 million annually, the overall net effect of the additional demand has been shown to be minimal across the network. This is because the forecast growth is likely to occur outside of the traditional early morning and evening peaks due to the changing profile of the Airport which now serves a more equal split of business and leisure passengers.
- 8.22 The primary focus of the mitigation proposed is to further promote sustainable travel patterns, both by staff and passengers. No additional onsite parking is proposed despite a proposed increase of 2.5 million passengers annually.
- 8.23 On 31 March 2023, LBN approved detail pursuant to condition 71 of the CADP1 permission which provides updated Travel Plan targets for the period 2023-25²⁷. It sets out how the

²⁷ LPA ref 22/02830/AOD

Airport will seek to achieve the aims of its Surface Access Strategy (SAS) (2017-2025); with a target to achieve 75% use of public and sustainable transport by passengers (previously 72%) and have 40% or fewer of its staff driving on their own in a car to work by 2025 (previously 49%).

- 8.24 Consistent with national policy to prioritise public transport and criteria F of Policy T8 of the London Plan, which seeks to ensure that proposals which make better use of existing airport capacity are underpinned by upgraded surface access links, it is proposed to increase the passenger sustainable transport target to 80% by 2030. The S106 agreement proposes a Sustainable Transport Fund (“STF”) to contribute to the Airport achieving this mode share target.
- 8.25 As set out the Heads of Terms the STF would make available a minimum of £2 million per annum for a period of 7 years. The Heads of Terms list possible priority projects as follows:
- earlier DLR services to and from the Airport;
 - improving connectivity between the Airport and the Elizabeth Line, informed by feasibility studies;
 - improvement of local bus routes serving the Airport (including enhancing frequencies and assisting the delivery of new routes);
 - integration with future bus routes south of the Thames via the Silvertown Tunnel;
 - measures within the Airport’s staff and passenger Travel Plans (including future reviews);
 - measures to improve walking and cycling infrastructure around the airport and within the Royal Docks; and
 - wayfinding improvements to Canning Town station.

Sustainability

- 8.26 The S106 Heads of Term introduce a new obligation securing the submission for LBN’s approval of a Carbon and Climate Change Action Plan (“CCCAP”) setting out measures which aim to deliver the Airport’s targets to become a London’s first net zero emissions airport by 2030.
- 8.27 As explained in Section 7 of my evidence, this will ensure Scope 1 and 2 carbon emissions to which the Airport can directly and indirectly influence will be no higher with the Proposed Amendments and indeed, with commitments in conditions to delivering the revised Energy Strategy. It is also proposed to revise conditions to comply with the latest energy strategy, which as I explain in section 7 of my evidence has been significantly improved to comply with the latest policy in guidance in the London Plan and Building Regulations. The S106 Heads of Terms also include complementary measures to commit the eastern energy centre to utilise on site heat pumps and photovoltaics or be connected to a district heating network to achieve carbon savings, consistent with London Plan energy targets for buildings.

9. The Planning Balance and Conclusions (Overall Summary)

- 9.1 RfR1 states that additional flight times would result in a new material noise impacts causing significant harm to the residential amenity of nearby residents. This is the only area of disagreement between the Appellant and LBN with wide ranging consensus on all other issues including the likely significant effects of the Proposed Amendments (as set out in the ES), no concerns about the principle of growth from 6.5 to 9 mppa, no concerns about changes in noise overall and no concerns about other topics such as climate change.
- 9.2 My evidence, and that of the Appellant's other witnesses, confirms that the Council were wrong to refuse the S73 Application on this single ground. The Proposed Amendments would allow the Airport to grow by making best use of its existing infrastructure without altering the permissible number of annual flights. The changes to the opening hours are integral to the growth and the associated benefits that the Proposed Amendments will deliver.
- 9.3 For the reasons set out in section 6 of my evidence, I find no conflict with Development Plan policies, including the 4 reasons cited by LBN in their decision notice:
- 9.3.1 The environmental and health impacts of the Proposed Amendments have been fully acknowledged and appropriate mitigation has been provided in accordance with **London Plan Policy T8**. The ES provides a full account of the likely significant environmental impacts, with standard metrics supplemented with weekend and other ones. It concludes that all changes in daytime and weekend noise levels are forecast to be negligible. Nighttime noise increases for some properties above the SOAEL, but these properties have already been treated by the SIS.
- 9.3.2 Noise impacts will be managed and mitigated in accordance with **London Plan Policy D13**. The significant enhancement to the scope and effectiveness of the Airport's residential SIS and will be triggered for qualifying residents at a lower noise threshold in the intermediate tier and will allow residents to receive a higher specification of treatment to their homes.
- 9.3.3 Overall community health impacts are considered beneficial with additional employment playing a significant part and outweighing any noise effects consistent with **Local Plan Policy SP2**.
- 9.3.4 The Proposed Amendments would deliver neighbourly development by reducing the overall noise at the Airport which will be accelerated by faster re-fleeting, resulting in a smaller overall 57dB noise contour (assessments show that there would be a 20% reduction in the noise contour compared to the existing contour cap and a 17% reduction compared to the actual contour in 2019).
- 9.4 Like LBN, I also find no conflict with policies in relation to other topics set out in section 7 of my evidence. None of these are reasons for refusal and there is no dispute with LBN about how the matters were assessed. In summary:

- 9.4.1 Air Quality - The enclosed Air Quality topic paper confirms that operational air quality effects will not be significant and would not trigger an exceedance of limit values consistent with **Policy S11** of the London Plan. Consistent with policy, the Proposed Amendments would also be consistent air quality positive requirements. Residual concerns about Ultra Fine Particles from LBN have also been addressed through agreement on a planning condition.
- 9.4.2 Highways – consistent with **London Plan Policy T8D** there would be no significant impacts on the highway network and any impacts on the public transport network can be mitigated through the implementation of the travel plan targets and the Sustainable Transport Fund.
- 9.4.3 Climate Change – **London Plan Policy T8B** states that development proposals should fully meet their external and environmental costs including in respect of climate change. The Proposed Amendments will maintain or reduce emissions from Scope 1 and 2 emissions which the Airport can control, and this will be secured through the Outline CCCAP. In relation to aviation emissions, these would be ‘not significant’ in EIA terms and would not be contrary to policy T8 or any other development plan policies because they would not have a material impact on the Secretary of State’s ability to meet obligations under the Climate Change Act, including by means of carbon budgets²⁸.
- 9.4.4 Health – impact on community health is assessed to be not significant, recognising explains that the socio-economic beneficial effects of the Proposed Amendments are agreed as significant for population health. This means that they must carry more weight than the adverse effects, which are agreed to be not significant. On this basis I conclude that this topic is positive in the planning balance socio-economic benefits as health benefits, consistent with **Local Plan Policy SP2** and **London Plan Policy T8**.
- 9.5 The substantial economic benefits including jobs, local wealth creation and improving the competitiveness of London and the Royal Docks are also additionally strongly supported by the following policies:
- 9.5.1 **Local Plan Policies S3, J1 & J3** - The Proposed Amendments will assist the Royal Docks to perform a growing economic role and enhance its role as a world class centre (S3). They will bring economic growth to the Arc of Opportunity and an employment hub which are identified as the primary focus for new job creation and infrastructure development (J1). Extended commitments to local training and funding will also ensure that that benefits will be shared with Newham Residents (J3).
- 9.5.2 **Local Plan Policy S3 and London Plan Policy T8A** - The Proposed Amendments are consistent with policies supporting the further optimisation (S3) and the recognised role of airports serving London in enhancing the city’s spatial growth particularly in Opportunity Areas (T8A).

²⁸ National policy (recognises that aviation emissions are primarily a matter for national, and not local, control, and such control is exercised by Government through the UK ETS, CORSIA and such other measures as the Government may decide to deploy

- 9.6 Taking this all into account, I consider that the Proposed Amendments comply with policies in the Development Plan identified in RfR1.
- 9.7 In the event that there was considered to be some conflict with development plan policy, for instance as suggested by HACAN East in relation to Climate Change and Policy T8 of the London Plan (which I do not accept), I consider that any such conflict would be minor and the Proposed Amendments would, in any event, be in accordance with the Development Plan when considered as a whole taking into account its consistency with other policies including those policies supporting improvements to airports and the delivery of economic growth.
- 9.8 Even if it were considered that the Proposed Amendments are not in accordance with the Development Plan as a whole, in my view, any such conflict would clearly be outweighed by other material considerations that in my view should be given significant weight in the planning balance. In that regard, I consider that the Proposed Amendments:
- a. Are consistent with up to date national aviation policy in Making Best Use and Flightpath to the Future which supports the principle of growth through making the best use of existing infrastructure.
 - b. Share the noise benefits from fleet modernisation with the community with i) modified condition 33 reducing the noise contour by 20% to 7.2km² (compared with the current 9.1km² contour cap); and ii) aircraft noise reducing throughout the week overall. This means that growth occurs in parallel with reduced noise for the community. They also share the economic benefits (see below).
 - c. Incentivise airlines to accelerate their re-fleeting to quieter aircraft more quickly by only allowing new generation to be used in the additional Saturday operating period and early morning slots.
 - d. Provide commitments in the CCCAP and revised energy strategy to reduce Scope 1 and 2 emissions to respond to JZS targets for airport operations.
 - e. Allow growth consistent with the Government's JZS trajectory and its carbon budgets and 2050 'net zero' target.
 - f. Commit to targets to achieve an 80% passenger sustainable transport mode share (up from 75%) and other improvements backed up by a Sustainable Transport Fund to deliver infrastructure and other improvements.
- 9.9 In the overall planning balance, I give substantial weight to the economic benefits. The Airport is already considered as a key economic anchor in the Royal Docks and the Proposed Amendments will allow it to significantly enhance this role generating an additional 2,180 jobs, and £249 million GVA for London compared to 2019. It will help London to become more competitive and generate additional income from inbound tourism. Along with further support to skills and training, in my opinion, the Proposed Amendments respond very positively to the long-standing deprivation, employment and skills challenges in the surrounding area, which has been identified as a priority by Government in its Levelling Up programme.

- 9.10 I also give substantial weight to the consumer benefits that the Proposed Amendments will bring by allowing the airlines to grow their route network, increase service frequencies to existing destinations and provide services to new destinations to the benefit of local residents and others that want to fly from the Airport.
- 9.11 I give moderate weight to the limited harms associated with operating in the additional periods. I recognise that the local community does not currently experience noise from aircraft from the Airport on Saturday afternoons, but for the reasons explained in Richard Greer's evidence, the impacts on local residents are limited and not considered to be significant, taking into account quantitative and qualitative analysis as judged against the measures in national policy. Richard Greer's evidence demonstrates that the noise impacts have been mitigated as much as is practicable and realistic to do so, with the enhanced SIS and Community Fund building on extensive mitigation measures that already exist at the Airport. I therefore conclude that the Proposed Amendments are consistent with latest Government policy in respect of aviation noise in the OANPS. In my view the economic and consumer benefits clearly outweigh the limited harm to local residents from operating in the additional opening hours.
- 9.12 Overall, I consider that the Proposed Amendments accord with the Development Plan as a whole and there are no material considerations which indicate that a decision should be taken other than in accordance with the Development Plan. Conversely, there are significant material considerations which weigh in favour of the S73 Application. Even if there were considered to conflict with the Development Plan as a whole (which I do not accept), I consider that those other material considerations would clearly and demonstrably outweigh that conflict anyway. On that basis, I consider that the appeal should be allowed, and that planning permission should be granted.

DECLARATION

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



Sean David Bashforth, Senior Director

7 November 2023