



**TOWN AND COUNTRY PLANNING ACT 1990, SECTION 73  
TOWN AND COUNTRY PLANNING (INQUIRIES PROCEDURE)  
(ENGLAND) RULES 2000  
APPLICATION BY LONDON CITY AIRPORT LIMITED  
to vary Conditions 2, 8,  
12, 17, 23, 25, 26, 35, 42, 43 and 50  
attached to planning permission  
13/01228/FUL allowed on appeal APP/G5750/W/15/3035673  
dated 26th July 2016**

**LPA REFERENCE NUMBER 23/00059/REF  
PINS REFERENCE NUMBER: APP/G5750/W/23/3326646**

**Rebuttal Proof of Evidence – Need**

Dr Christopher James Smith  
November 2023



# 1 Introduction

## Features of London City Airport

1.1 Following the submission of Proofs of Evidence on 7 November 2023, I have reviewed that submitted by Ms Congdon of York Aviation on behalf of London City Airport (LCY). There are a number of matters in this document which I feel may be better responded to before the Public Inquiry and I therefore submit this short additional/rebuttal Proof of Evidence.

1.2 The matters fall into two main categories:

A: Certain areas which are disputed, and which I deal with under specific topic headings; and

B: Statements by Ms Congdon that my advice to LBN was incorrect.

1.3 The second of these has the potential to damage my professional standing and reputation, and so I must put on record my position, even though the points have little bearing on the assessment of the Appeal.

1.4 Unless otherwise noted, references are to Ms Congdon's Proof (APP/1/A).

### A.1 Policy

1.5 Ms Congdon repeats much of the material on Aviation Policy presented in LCY's Need Case (CD1.60). She also criticises LBN's lack of consideration of this subject. The fact of the matter is that there is little difference between LBN and LCY in relation to Aviation Policy: I have reviewed the Policy evidence given in the Applicant's Need Statement (CD1.60); discussed my initial conclusions with Ms Congdon; and following these discussions updated my advice to LBN in CD4.5.9. LBN in its turn has recognised that its decision on the Application needed to weigh up the balance between economic benefits on the one hand and noise and other environmental impacts (excluding carbon emissions) on the other hand. It concluded that the harm outweighed the benefits and refused the Application.

1.6 In its MBU policy, Government is supportive of airport development because of its importance to economic development. I have advised LBN that the incremental growth sought at LCY by this Application could be handled at other London area airports. Hence, the Council is able to assess that the economic benefits would still be achieved for the UK, albeit probably largely benefitting areas other than Newham. The dispersion of these benefits would therefore achieve the

advantage for London generally and elsewhere, whilst avoiding, for areas around the airport itself, the environmental disbenefits to the residents of its borough arising from the changes applied for.

1.7 LBN chose on 10 July 2023 to exercise its rights under Airports Policy to refuse LCY's Application on the grounds of intrusion arising from the application.

1.8 At several points in her Proof, Ms Congdon alludes to meeting demand locally and where it arises as being Government policy, although she does not reference this policy in her section on Aviation Policy. The closest she comes to this appears to be in relation to the Manston Airport DCO.

1.9 Ms Congdon argues (Para. 3.5.1) that it is not government policy "...*that airport capacity elsewhere must be fully used before consent for growth at another airport...*", citing the decision on the Manston Airport DCO. This of course does not mean that new capacity provision is justified to satisfy demand more locally. In both paragraphs quoted following this and the next paragraph, the Secretary of State in his decision emphasises the importance for decision-makers of considering environmental and economic impacts. His decision in the case of Manston, located remote from air services in north east Kent<sup>1</sup>, should not be read across as a precedent for this application for LCY nor as a policy statement that demand should be met locally.

1.10 Ms Congdon does not refer in her evidence nor in the Need Case (CD 1.60) to a positive government policy that demand should be met locally, but effectively has to argue that government policy does not stop it by requiring existing capacity to be fully utilised first. This is a necessary but not sufficient policy condition. Indeed, even if there is airport capacity, it is airlines that ultimately have the final say on whether that demand is satisfied locally.

## **A2 Current Market Performance**

1.11 At Para 4.2.5, Ms Congdon cites an unpublished CAA Departing Passenger Survey for the first six months of 2023. The reference to the 2023 Survey raises two questions. First, whether it is acceptable to refer to such an unpublished

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<sup>1</sup> I note that Manston is considerably further away from access to air services, some 74 miles from the nearest commercial airport (LCY), with Gatwick Airport being a close second at 78 miles by road.

source, and second what consequence arises from it where it differs from a published source.

1.12 The most recent published CAA survey data are for the full year of 2022. These 2022 data do not provide journey purpose information at a route level but only at the domestic/international level. They indicate a lower proportion of business passengers (down an average of five percentage points or about 25% across London airports) from 2019 levels. These data are of course dependent on how other market segments are behaving.

1.13 Without the source data, I am unclear of the information which is being presented in Ms Congdon's Table 4.1. Based on the normal presentation of data of CAA survey data, one possible explanation of the table is that it gives the number of first half 2023 business passengers as a proportion of the corresponding 2019 figure, a possibility supported by the first sentence of her Para 4.2.7. In 2019 as a whole, there were according to the CAA Survey 632,000 domestic business passengers. 94% (from her Table 4.1) of this figure would be 594,000 domestic business passengers in 2023 (on an annual basis). My analysis of CAA Airport Statistics shows 720,490 total domestic passengers in the year to end September 2023. This would imply a business percentage of 88% on domestic services. This is materially higher than in both 2019 (57%) and in the more recent 2022 (also 57%) surveys, and would require leisure passengers to have fallen in both relative terms and absolute terms: in 2022 there were on a Survey basis 280,000 domestic leisure passengers, but this explanation would allow there to be only 126,490 such passengers in 2023. I therefore discount this explanation.

1.14 A second explanation of the Table 4.1 information is that it compares the percentage shares of business passengers on domestic and European services between the two periods. The information here for domestic business passengers is consistent with the 2022 Survey data: indeed, a comparison on this basis between 2019 and 2022 would give a 100% recovery in proportionate travel. However, with a September 2023 MAT (from CAA head-count statistics) of 720,490 domestic passengers contrasting with a 2019 domestic total at LCY of 1,113,165 (CAA Statistics, Table 10.2) meaning a recovery of only 64.7% in domestic traffic, it is not reasonable to conclude that *"...where airlines have reinstated services, demand to use LCY remains strong..."* (Para 4.2.7), as airlines

have clearly not reinstated all domestic services. A conclusion would be that domestic business and domestic leisure traffic have recovered at the same pace. I consider that Ms Congdon's contention that lack of reinstatement of services at LCY is a cause of slow recovery falls and is not demonstrated by the evidence she has presented here. In any event, such a contention would need to address 'the chicken or the egg' question: which is cause and which is effect?

1.15 Despite the "...*faster recovering leisure market...*" (Para 4.2.3), LCY has not been able to capitalise on it, which Ms Congdon suggests is "...*a direct result of the limitations on its operating hours at weekends...*" (Para 4.2.12). LCY is currently operating with the same operating hours as in 2019, as are other UK airports. It is therefore difficult to understand why LCY has not been able to regain its previous markets to a similar extent as the other London airports. Ms Congdon concludes this sub-section of her Proof with one of her statements that meeting consumer demand locally is in line with Government policy (Para 4.2.13), despite not identifying this policy in the many Government documents quoted in her evidence.

1.16 The third reason suggested by Ms Congdon for the slow recovery seen at LCY is the Heathrow Effect, with airlines protecting their slots at Heathrow at the expense of not moving services back to LCY. There is some merit in this suggestion. It does also mean that (a) passenger demand at LCY is dependent on what is happening at Heathrow and possibly also Gatwick; and (b) airlines are able to 'move' passengers around their network and passengers themselves are willing to 'be moved' between airports.

1.17 I note that the largest air service providers at Heathrow and LCY are British Airways and BA Cityflyer, a wholly owned subsidiary of British Airways, with each accounting for about half of the traffic at its respective airport. It would be reasonable to assume that provision of air services is co-ordinated between the two operators. Another subsidiary, BA Euroflyer, operates European services from Gatwick. British Airways is itself part of the International Consolidated Airlines Group S.A. (IAG) registered in Madrid.

1.18 A fourth factor cited by Ms Congdon for LCY slow recovery are issues associated with engine problems and aircraft availability, which would make LCY uniquely unfortunate. It is not known if other airports experienced these or similar

operational problems, so that it cannot be said with confidence that these problems are one of the reasons for LCY's lagging recovery.

1.19 I continue to consider it is simply impossible at this time to know whether the most appropriate description to use for LCY's traffic performance in 2023 is 'slower recovery', 'stalled recovery' or 'incomplete recovery'.

### **A.3 New Operating Hours**

1.20 Ms Congdon describes again the role that new operating hours at LCY would play for airlines flying to and from the airport, notwithstanding the fact that I/CSACL have always acknowledged this efficiency improvement (see for example Para 2.4 of CD 4.5.9, and Para 1.14 of my Proof).

1.21 Ms Congdon goes on to investigate the economics of fleet renewal, analysing the replacement of Embraer E190 aircraft with newer generation E195 E2 aircraft. This analysis (Table 5.2) shows that the replacement of one E190 by one E195 E2 would improve the operating airline's financial performance in 2025 by £719,188 per annum with the existing Saturday afternoon closure, and by £915,379 per annum if new longer hours on Saturday were permitted. Hence, the difference per aircraft would be a financial improvement of £196,191 per annum per aircraft for the airline's shareholders at the expense of Saturday afternoon disturbance for the residents around LCY. BA Cityflyer currently operates 20 E190s<sup>2</sup>, suggesting that a financial improvement of £3.9 million per annum would result directly from new operating hours (if they were to be permitted), and would ultimately benefit the airline's shareholders. Such an improvement would be positive for the re-fleeting decision as I noted in my Proof (Para 5.19) and would represent some 20% of the financial improvement that will result from re-fleeting.

### **A.4 Attractiveness of LCY**

1.22 In her Proof, Ms Congdon indicates that her analysis suggests that LCY is an attractive airport for passengers to use but that their ability so to do is restricted by a shortage of air services, which in turn is linked to not being able to operate on Saturday afternoons. It is therefore necessary to examine this view.

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<sup>2</sup> It was operating 24 E190s in January 2022, which was seven more than in 2019 with six of the new aircraft replacing smaller E170 aircraft with the seventh being an expansion of the fleet.



1.23 LBN has indicated in its Statement of Case that it “...does *not object to an increase in passengers from 6.5 mppa to 9mppa subject to the impacts of such a change being effectively managed. This includes additional noise impacts, impact on public transport and environmental impacts...*” (CD 10.2, Para. 3.3). Given Ms Congdon’s suggested attractiveness of the airport the question then arises of whether the higher throughput could be achieved without the changes envisaged in the Application. I consider that a throughput of 9 mppa could be handled at LCY without extending the operating hours. This is based on increases to the number of aircraft movements per hour that LCY’s runway could handle, and re-fleetings which will increase the average seats per flight. Table 1.1 below sets out how I have reached this conclusion:

**Table 1.1: Aircraft Movements at LCY**

Parameter	Pre-CADP1 (2015)	CADP1	Master Plan
Hourly Runway Capacity	38	45	52
Annual Aircraft Movements	85,077	100,750	116,500
of which			
Commercial Air Transport Movements	79,955	94,500	109,500

Source: Statement of Common Ground and LCY documents

1.24 Pre-CADP1 data are for 2015, while future annual commercial movements for the higher hourly runway capacities are simple pro-rata calculations derived from 2015 actual movements and hourly capacities, an approach which maintains the 2015 hourly profile of aircraft movements during the course of the day and week, and of course maintains the existing operating hours of LCY. In practice there might be more spreading of flights away from peak periods, and greater flexibility would be provided by squeezing other aircraft movements out of the airport, leading to more annual ATMs.

1.25 To convert the 109,500 ATMs to an annual passenger throughput, I have assumed an average number of seats per flight of 107.9, which I derive from LCY’s Need Case (Core Development Scenario) (CD1.60), and a load factor of 75.2% (again derived from CD 1.60), to give an annual passenger volume of 8.9 mppa – with existing hours of operation. To reach a throughput of 9 mppa, would require very minor improvements to load factors and/or average seats per flight. If LCY is as attractive for passengers as Ms Congdon argues, I consider that a raising of the passenger cap would in itself offer additional incentives for airlines to re-fleet



to more economical and larger aircraft without requiring additional hours of operation.

## **A.5 Recent DfT Forecasts and GDP Assumptions**

1.26 At Para 7.3.4, Ms Congdon questions my use of the forecasts given in a March 2023 DfT SAF Mandate consultation exercise, by speculating that future DfT forecasts will be revised upwards as a result of assumptions of higher GDP growth. It is important firstly to note that the March 2023 forecasts are the most up-to-date DfT traffic forecasts, and will remain so until sometime next year. Ms Congdon attempts to demonstrate that the next set of forecasts will be revised upwards. Her argument is based on the differences in assumptions for UK GDP, with more recent assumptions stated to be more optimistic than those used for the DfT's March 2023 exercise. These assumptions are set out in Table 7.1 of her Proof.

1.27 This table gives the assumed growth rates from 2023. However, both her Need Case forecasts and the two DfT forecasts have a starting point of 2019, so that it is more appropriate to consider GDP development from that year. Fortunately, the longer data series for two of these forecasts (the Need Case and the most recent OBR March 2023 forecasts) were submitted by Ms Congdon to the Examination of London Luton Airport's DCO application earlier this year<sup>3</sup>. The OBR forecasts for November 2022 (the basis of the DfT's 2023 forecasts) only give GDP figures assumptions from 2021. So that this Inquiry is given a full picture, I repeat that information here.

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<sup>3</sup> London Luton Airport DCO Application, Examination Document Reference TR020001-001683-8.43, Table 2.1



**Table 1.2: Updated GDP Growth Rates**

Year	Need Case GDP Change	OBR November 2022 and TAG January 2022 Change	OBR March 2023 and TAG May 2023 Change
2020	-9.4%		-11.0%
2021	7.5%	7.5%	7.6%
2022	3.8%	4.2%	4.0%
2023	1.8%	-1.4%	-0.2%
2024	2.1%	1.3%	1.8%
2025	1.8%	2.6%	2.5%
2026	1.7%	2.7%	2.1%
2027	1.5%	2.2%	1.9%
2028	1.5%	1.8%	1.8%
2029	1.5%	1.7%	1.8%
2030	1.5%	1.7%	1.7%
2031-2050	1.5%	1.4%	1.5%

Source: York Aviation

1.28 I would have preferred to have illustrated relative growth from a 2019 starting point (the base year of all the forecasts), but in the absence of quoted data from the OBR for the November 2022 dataset, I have based growth from a 2021 initial position: the three datasets have very similar growth that year over 2020. In the period up to 2030, application of the growth rates to a 2021 starting point (using a base of 100 for convenience of illustration) actually shows very little difference in growth to 2030, as illustrated below.

**Table 1.3: Comparison of Growth Rates (2021 = 100)**

Year	Need Case GDP Change	OBR November 2022 and TAG January 2022 Change	OBR March 2023 and TAG May 2023 Change
2021	100	100	100
2022	103.80	104.20	104.00
2023	105.67	102.74	103.79
2024	107.89	104.08	105.66
2025	109.83	106.78	108.30
2026	111.70	109.67	110.58
2027	113.37	112.08	112.68
2028	115.07	114.10	114.71
2029	116.80	116.04	116.77
2030	118.55	118.01	118.76

Source: Derived from Table 1.2 above

1.29 UK GDP is the most important influencer of growth in air passenger numbers, but it is not the only one as I have noted in my Proof. Hence, it is speculation that the next DfT forecasts will be revised upwards.

1.30 I further note that the DfT's March 2023 forecasts were for 304 mppa in 2025, while the Jet Zero Forecasts from 2022 gave a 2025 throughput of 322 mppa for the High Ambition scenario. As at the end of September 2023, the UK's total traffic had reached 264 mppa on an MAT basis (CAA Statistics), while I estimate a calendar year figure for 2023 of some 280 mppa. Achievement of the March 2023 forecast for 2025 is credible although that of the earlier High Ambition forecasts would be more challenging.

## **A.6 Carbon Issues**

1.31 Ms Congdon discusses these at Para 7.4.8 *et seq.* of her Proof and seemingly seeks to demonstrate that (a) replacement aircraft would produce lower emissions than the existing fleet at LCY, and (b) the carbon emissions resulting from the applications would be compatible with the Jet Zero Strategy. The original York note (CD 4.2.1) on CSACL's April 2023 Review of Need, was received on 5 May 2023, and related to CSACL's contention that emissions per passenger were lower for larger aircraft. A response ('CSACL Response to York Comments May 2023') was sent on or about 23 May 2023. This note (Para 21 *et seq.* of the note):

- explained the basis of my selection of aircraft types;
- indicated that I consider the comparison of old generation aircraft at other airports with new generation aircraft at LCY to be invalid (especially in view of the fact that over 100 new generation larger aircraft were already on the UK register but there were zero new generation jets able to use LCY on the register);
- indicated the expected improvements from old generation to new generation aircraft; and
- noted that York had provided no source for the emissions data<sup>4</sup>.

1.32 I have received no further communication on these matters since, until Ms Congdon's Proof: it was not mentioned in York's note of 8 June 2023 (CD 4.2.1), for example. Not only was there no communication on these matters but the points I raised (noted above) have not been addressed in Ms Congdon's Proof.

## **A.7 Capacity at Other London Airports**

1.33 Ms Congdon suggests (Para 7.4.1) that Table 3.8 of my report to LBN (CD 4.5.9) 'purports' to show that there is sufficient airport capacity to meet demand without additional capacity at LCY to 2031. Given that this table shows a positive

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<sup>4</sup> I have repeated this information in my Proof (Paras. 5.8 to 5.16)

capacity balance throughout the period, I consider that I did in fact demonstrate this using the most recent DfT forecasts. I have updated this table in my Proof (Table 4.2), continuing to use the most recent 2023 DfT forecasts but updating airport capacity figures using the now approved increase to the passenger cap at London Luton Airport, and Gatwick Airport's own assessment of its capacity with its current single runway. Ms Congdon may speculate that future DfT forecasts will be revised upwards, but I contend that Table 4.2 of my Proof represents the best summary currently available of the demand:capacity balance in the London area.

## **A.8 Importance of SAF**

1.34 At Para 7.3.2, Ms Congdon states that SAF costs are a key part of my contention her forecasts are optimistic. While SAF costs at between 2 and 6 times the price of Jet A1 Kerosene are indeed a significant concern for airlines, they are just one element in my conclusion that there are significant down-side risks to the traffic forecasts arising from economic growth assumptions, and other price concerns as I made clear in my report to LBN (CD 4.5.9, Para 3.40 *et seq.*) and in my Proof (4.31 *et seq.*) for example.

## **B Suggestions of Errors**

1.35 I turn now to consider statements made by Ms Congdon that there were errors in the advice which I have given to LBN.

### **B.1 Positioning Flights**

1.36 In Section 5 of her Proof discussing the need for new operating hours to improve airline efficiencies, Ms Congdon discusses 'Positioning Flights'. At Para 5.3.12, she asserts that *"...CSACL, in its advice to LBN, was completely wrong, therefore, in its characterisation of there being a low level of aircraft positioning activity at LCY..."* and provides a reference to Para 3.16 of my review for LBN (CD4.5.9). Immediately following this paragraph is Table 3.2, which in its final column gives 'Positioning Flights' as a percentage of Air Transport Movements, showing that LCY has the second lowest proportion of such flights of the five major London airports. The base information comes from CAA Airport Statistics, which define Positioning Flights as *"...movements by aircraft moving into position for scheduled or charter transport flights or returning to base after such flights, including empty Air Taxi Movements..."*.

1.37 My advice to LBN has always been that longer opening hours would improve airline efficiency and I have never suggested otherwise, nor indeed have I had to be persuaded of this by Ms Congdon. Ms Congdon's point seems to hang on there being a number of lightly loaded aircraft being flown out of LCY on Saturday which carry passengers. This is simply not the CAA's definition of a positioning flight. I note that no statistical evidence has been provided in support of Ms Congdon's contention. I did not request any such statistics at the time as it seemed a waste of resource for several parties to investigate further given that there was and remains agreement on the improvement to airline efficiency that longer operating hours would allow.

1.38 I am surprised that Ms Congdon raises this matter now given the overall agreement on the airline efficiency point, with the positioning flights question not being of any consequence in this debate.

## **B.2 Change of Position**

1.39 Ms Congdon discusses from Para 7.3.6 a change of position in relation to LCY reaching 9 mppa. She states *"...CSACL no longer believes that the Airport will ever attain 9 mppa in the light of its short term performance during the summer of 2023, in particular the fact that LCY handled fewer passengers in July 2023 than in July 2022..."*. This paraphrasing distorts the words of the Statement of Common Ground (CD11.2, Para 17.1b) which correctly presents my views as *"...LBN's aviation adviser agreed at the time that 9 million passengers per annum will be reached at sometime later than 2031, but now believes there is some risk this number will not be achieved in light of short-term performance at the Airport..."*. There is a very considerable difference between these two statements.

1.40 Ms Congdon also attaches particular significance to traffic performance in July 2023 relative to a year earlier. I can find no documentary evidence of referring to this month, although it is possible that I did mention it during a tele-conference on 20 September discussing the SoCG: July's traffic figures were scheduled to have been published a few days earlier so would have been fresh in my mind. If I did, I would most certainly have been using it as an example of why I now had doubts which were directly related to my view of the current situation and this was why I was changing my position.

1.41 Ms Congdon gives a detailed account of differences between July 2022 and July 2023. She concludes that she does not consider it *"...robust to reach conclusions about trends in traffic growth based on data for individual months. For the reasons set out in Section 4, drawing long term conclusions from short term performance is misleading..."*. It will be clear from my evidence that I do not attach importance to data for individual months either, but I am concerned about any lengthy trend such as the stagnation of growth I have observed during 2023 and which still continues.

1.42 Ms Congdon should have been aware that I was not relying on individual monthly data as I e-mailed her on 3 October 2023 in the following terms: *"...the performance of passenger traffic at LCY since March this year may reflect a fundamental change in LCY's market place although at the present time this is not clear. In view of this, I do not feel able to provide an opinion on the long term prospects for LCY including whether or not 9 mppa might be reached (assuming permission is granted) because of this uncertainty..."*.

### **B.3 Other Errors**

1.43 At Para 7.1.2 of her Proof, Ms Congdon stated *"...There were a number of errors made in the analysis by CSACL that were addressed in a note (CD4.2.5) submitted to LBN in June 2023. These comments were not referenced in the Officers' Report..."*. The note submitted by York followed significant discussion and e-mail exchanges between Ms Congdon and me. There were and remain many differences of opinion and interpretation but the only alleged 'error' that I can identify in York's note of 8 June 2023 relates to Brexit: Ms Congdon asserted that I was *"...not correct to assert a Brexit effect as impacting European traffic..."* (CD 4.2.1 Para 6), whereas my actual words in the document being referenced were *"...This slower recovery may be a symptom of a change in LCY's market reflecting slower growth in traffic to the EU as a consequence of Brexit, and a lower level of business travel facilitated by increased video-conferencing..."* ('CSACL Response to York Comments May 2023' Para 7). This wording does not support Ms Congdon's assertion in her note of 8 June and thence her use of the term 'error' in her Proof (Para 7.1.2).

1.44 Her note was received before I submitted my final review (CD 4.2.5.) to LBN, and my review included those comments from York that I considered valid.



1.45 In view of the potential threat to my professional reputation I must firmly reject the several statements made by Ms Congdon.