

## London City Airport

Appeal Reference: APP/G5750/W/23/3326646

### Appellant's Note on EU Regulation 2014/598

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#### 1. Background

- 1.1 This note has been produced by Town Legal LLP on behalf of London City Airport Limited ("**the Appellant**") in response to the letter dated 5 December 2023 from Ben Million (Head of Airport Planning) at the Department for Transport ("**DfT**") to Mark Boulton at The Planning Inspectorate ("**the Letter**").
- 1.2 In compiling this note, Town Legal have been assisted by the Appellant and its consultant team including Richard Greer of Arup (the Appellant's expert witness on noise) and Bickerdike Allen Partners (the Appellant's acoustic consultants, who contributed to the Environmental Statement which forms part of the appeal documents).
- 1.3 The Letter refers to the requirements of retained Regulation (EU) No. 598/2014 ("**EU598**")<sup>1</sup>. Mr Million records the DfT's view that:
- (a) London City Airport ("**the Airport**") is an airport that falls within scope of EU598;
  - (b) As decision makers for the planning appeal, the joint Secretaries of State are the competent authorities for the purposes of EU598;
  - (c) The Secretaries of State are therefore responsible for ensuring that the processes set out in EU598 are followed when adopting noise-related operating restrictions proposed as part of the planning appeal; and
  - (d) EU598 applies to changes to existing operating restrictions as well as to new restrictions.
- 1.4 Mr Million notes that EU598 prescribes the process to be followed for the introduction of noise-related operating restrictions, including allowing interested parties three months prior to the adoption of new operating restrictions to submit comments. He goes on to observe that the consultations undertaken as part of both the planning application and appeal processes should serve to satisfy this requirement.
- 1.5 There is no suggestion in the Letter that the joint Secretaries of State are seeking a recommendation on the EU598 process from the Inspectors hearing the appeal. However, the Appellant has produced this note to assist the Inspectors in signposting the Secretaries of State to the information that is relevant to their role as competent authorities under EU598. This note is set out as follows:
- (a) Sections 2-4 examine whether EU598 applies to the appeal proposals.
  - (b) On the assumption that EU598 does apply to the appeal proposals, Sections 5-8 provide a guide to compliance with EU598 and the balanced approach, identifying where relevant information can be found in the inquiry documents.

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<sup>1</sup> Core Document CD3.7.14

## 2. Introduction

- 2.1 As part of the appeal proposals, the Appellant is seeking permission (a) to extend operating hours on Saturday afternoons and (b) for three additional movements between the hours of 0630 and 0659 Mondays to Saturdays. The Appellant has committed to limiting the use of the extended operating hours and the additional early morning movements to quieter, new generation aircraft and to provide an enhanced Sound Insulation Scheme (SIS). Additionally, the Appellant has agreed to secure the benefits of the fleet modernisation that is incentivised by the appeal proposals by introducing a 57dB noise contour area limit which is lower than that which already applies at the Airport. Together these noise reduction or mitigating measures are referred to in this note as **“the Proposed Conditions”**.
- 2.2 EU598 was adopted on 16 April 2014 and came into force on 13 June 2016, at which point the previous Directive<sup>2</sup> on the establishment of rules and procedures for the introduction of noise-related operating restrictions at airports was repealed. EU598 was implemented in England and Wales through The Airports (Noise-related Operating Restrictions) (England and Wales) Regulations 2018<sup>3</sup>, which came into force on 23 July 2018 and designates competent authorities for the purposes of EU598.
- 2.3 The preceding legislation to EU598 (Directive 2002/30) was implemented in the UK through The Aerodromes (Noise Restrictions) (Rules and Procedures) Regulations 2003 and these Regulations continued to apply until 23 July 2018. As with EU598 there was a requirement to follow a “balanced approach” when introducing operating restrictions to address noise issues at a qualifying airport.
- 2.4 It should be noted that consideration of the planning appeal for the City Airport Development Programme (CADP 1) which resulted in the grant of planning permission by the Joint Secretaries of State on 26 July 2016, was not considered to be subject to the procedure then prescribed for the introduction of noise-related operating restrictions in the 2003 Regulations. Furthermore, the process prescribed by EU598 for the introduction of noise-related operating restrictions was not considered relevant to any of the following decisions relating to the expansion of capacity at qualifying airports and the associated changes to noise controls:
- (a) The decision of the Panel of Inspectors dated 26 May 2021 in Appeal Ref: APP/C1570/W/20/3256619 relating to (among other things) the increase in passenger handling capacity at Stansted Airport to 43 million passengers per annum. This included noise restrictions (condition 7) which restrict the noise emanating from aircraft in line with the previous planning permission for up to 35 million passengers per annum and thereafter provides for progressive improvement in noise conditions over time by reduction in both daytime and (for the first time) night-time noise contours.
  - (b) The decision of the Panel of Inspectors dated 2 February 2022 in Appeal Ref: APP/D0121/W/20/3259234 relating to (among other things) the increase in passenger handling capacity at Bristol Airport to 12 million passengers per annum. This included noise restrictions which provide for the reduction over time of the area enclosed by the 57dB daytime noise contour and the area enclosed by the 55dB night-time noise contour (condition 14), a quota count system with quota count budgets for the

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<sup>2</sup> Directive 2002/30 of the European Parliament and of the Council

<sup>3</sup> Core Document CD3.7.15

summer season and the winter season, as well as restrictions on aircraft permitted to operate at night (condition 16) and limits on aircraft movements at night (condition 17) and in the early morning/late night “shoulder periods” (condition 18).

- (c) The decision of the Joint Secretaries of State dated 13 October 2023 in the recovered planning application reference 21/00031/VARCON for the increase in passenger handling capacity at London Luton Airport to 19 million passengers per annum. This included amended noise restrictions which provide for the reduction over time of the area enclosed by the 57dB daytime noise contour and the area enclosed by the 48dB night- time noise contour (condition 9).

### 3. Application of EU598

3.1 EU598 requires that a “balanced approach” is taken to managing aviation noise, with operating restrictions only being introduced once other measures have been fully considered. It remains ‘retained EU law’ post-Brexit<sup>4</sup>.

3.2 EU598 applies in circumstances where the following are satisfied<sup>5</sup>:

- a) the airport in question is an airport, as defined in EU598;
- b) a noise problem has been identified at the airport through noise assessments carried out on a regular basis; and
- c) noise-related operating restrictions are being considered at such an airport.

EU598 makes clear in recital (9) that such operating restrictions should be introduced only when other measures are not sufficient to attain the relevant noise abatement objectives.

3.3 Historically, before the pandemic, London City Airport would have been considered an ‘airport’ as defined in EU598 since it was an airport which had more than 50,000 civil aircraft movements per calendar year. However, the definition in EU598 indicates that whether or not an airport meets this threshold is to be established on the basis of the average number of movements in the last three calendar years before the noise assessment; the 2018 Regulations make clear that for airports in England and Wales this three year period should precede the date when the last assessment of the noise situation at that airport was carried out in accordance with the Environmental Noise (England) Regulations 2006.

3.4 The last noise assessment at the Airport in accordance with the Environmental Noise (England) Regulations 2006 was carried out in 2022. In the three calendar years preceding this (2019 to 2021) the Airport averaged below 50,000 civil aircraft movements per year:

- (a) 2021: 14,463
- (b) 2020: 19,069
- (c) 2019: 84,260

- giving an average of 39,264 aircraft movements. This means that, strictly speaking, under the 2018 Regulations London City Airport would not be subject to EU598.

3.5 Notwithstanding this, if for the purposes of the appeal the Secretaries of State were to depart from the 2018 Regulations and consider the three calendar years preceding the year modelled

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<sup>4</sup> Subject to a number of amendments to make the drafting UK specific, contained in The Aviation Noise (Amendment) (EU Exit) Regulations 2019

<sup>5</sup> Articles 1, 5 and 6 of EU598

in the Environmental Statement submitted with the appeal proposals (2021), then during this period the Airport did average more than 50,000 civil aircraft movements per year:

- (a) 2020: 19,069
- (b) 2019: 84,260
- (c) 2018: 80,854

- giving an average of 61,394 aircraft movements.

- 3.6 For the purposes of the remainder of this note we have assumed that the Secretaries of State consider the Airport to be an airport with more than 50,000 civil aircraft movements per year and, in principle, subject to EU598.
- 3.7 It is important context that regular noise assessments are undertaken at the Airport as part of its Noise Action Plans (NAP). Neither the approved 2018-2023 NAP, nor the draft 2024-2028 NAP (CD3.7.33) identify a 'noise problem' at the Airport and neither Defra nor the Department for Transport has suggested that a 'noise problem' should be identified. The draft NAP for 2024-2028 includes the appeal proposals at its Section 3. On this evidence there is no 'noise problem' that needs to be addressed by new noise-related operating restrictions at the Airport. Nevertheless, this note goes on to consider whether the Proposed Conditions constitute 'operating restrictions' within the meaning of EU598.
- 3.8 Article 2 of EU598 defines an 'operating restriction' as [our emphasis]:
- "a noise-related action that **limits access to or reduces the operational capacity of an airport**, including operating restrictions aimed at the withdrawal from operations of marginally compliant aircraft at specific airports as well as operating restrictions of a partial nature, which for example apply for an identified period of time during the day or only for certain runways at the airport."*
- 3.9 The Proposed Conditions do not "limit access to or reduce the operational capacity" of the Airport. Indeed, the appeal proposals would result in a relaxation of operating restrictions at the Airport within the same overall operating capacity: they would result in extended operating hours on Saturday afternoons, additional movements on a Saturday and additional movements in the early morning period, but within the same annual aircraft movements limit that already exists at the Airport. On that basis, we do not see that the Proposed Conditions constitute 'operating restrictions' as defined in Article 2 of EU598 and/or that the process prescribed by EU598 applied in this case.
- 3.10 EU598 is aimed at ensuring measures do not distort competition or hamper the overall efficiency of the EU aviation network through the inefficient use of **existing capacity**<sup>6</sup>. In relation to the appeal proposals, airlines will not be obliged to operate in the extended hours or to utilise the additional movements on Saturdays and/or in the early mornings if planning permission is granted; there will be the same number of total permitted aircraft movements at the Airport and the same overall number of potential slots, which can be utilised by airlines wishing to access the Airport.
- 3.11 This point is further emphasised by Recital (15) of EU598 which clarifies that, although EU598 is being introduced to create a "*new and wider definition of operating restrictions as compared to Directive 2002/30/EC*", the application of EU598 "*should not lead to delay in the implementation of operational measures which could immediately alleviate the noise impact*

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<sup>6</sup> Recital (6) of Regulation 598

*without substantially affecting the operational capacity of an airport. Such measures should therefore not be considered to constitute new operating restrictions.”*

- 3.12 Having regard to the objectives set out in Recital (15), the Appellant’s view is that the Proposed Conditions and related planning obligations may be ‘noise-related actions’ as defined by EU598, but not ‘operating restrictions’ as defined (i.e. a noise-related action that limits access to or reduces the operational capacity of an airport). The Proposed Conditions reduce the potential noise impact of aircraft that could operate in new, not the existing, slots; they ensure that only new generation aircraft can utilise the extended operating hours/the additional early morning movements. The appeal proposals do not risk limiting or reducing existing capacity or access to the Airport. Consequently, it is our view that the Proposed Conditions do not constitute an “operating restriction” under EU598.
- 3.13 It is also important to note that Article 2 of EU598 defines the “balanced approach” which must be employed in managing aviation noise under EU598 as follows:  
*“the process developed by the International Civil Aviation Organization under which the range of available measures, namely the reduction of aircraft noise at source, land-use planning and management, noise abatement operational procedures and operating restrictions, is considered in a consistent way with a view to addressing the noise problem in the most cost-effective way on an airport-by-airport basis”*
- 3.14 It is clear from the wording of this definition that there is a distinction between:  
i) the reduction of aircraft noise at source;  
ii) land-use planning & management;  
iii) noise abatement operational procedures; and separately  
iv) “operating restrictions”.
- EU598 is aimed at ‘operating restrictions’ (as defined), not those other forms of noise mitigation.
- 3.15 The Proposed Conditions can be considered to fall within the first and second categories:  
(a) The Appellant is proposing to cap noise to reduce noise at source by specifying that only new generation aircraft should use the extended hours and is proposing to secure this through principles of land-use planning i.e., via a planning condition.  
(b) The existing Noise Contour Strategy that has been approved by the London Borough of Newham under condition 33 of the CADP 1 planning permission is also consistent with this. The Strategy aims to reduce the area of the 57dB noise contour by 2030 and beyond and the forecast contours included in the appeal proposals indicate that a reduction in the 57dB noise contour area to 7.2 km<sup>2</sup> will be achieved by 2031 (or by the time the Airport reaches 9 million passengers per annum), with the forecast use of new generation aircraft.
- 3.16 In order to address the view expressed by Mr Million in the Letter that EU598 applies to changes to existing operating restrictions as well as to new restrictions, the Appellant has analysed all the measures secured by the appeal proposals which are aimed at reducing the noise impact from aircraft, as opposed to only the Proposed Conditions. This analysis is set out in Table 3.1 (overleaf) and adopts the same distinction between different types of measures that appears in the definition of “balanced approach” (paragraph 3.13 above). It references the conditions and obligations associated with the planning permission for CADP 1

(CD7.8) as modified by the appeal proposals (with condition numbering reflecting the latest set of conditions agreed between the Appellant and the Council).

3.17 From Table 3.1 it can be seen that the measures aimed at reducing the noise impact from aircraft, which can be categorised as operating restrictions, are all existing measures and as a result of the appeal proposals either would remain **unchanged** or would be **reduced** in terms of their effect on limiting access to the Airport or reducing the operational capacity of the Airport. In other words, access to the Airport and the operational capacity of the Airport are not adversely affected and, in such circumstances, the EU598 process does not apply.

3.18 In conclusion:

(a) the Appellant's view is that the Proposed Conditions do not constitute 'operating restrictions'. The Proposed Conditions are, in effect, noise reduction measures at source, to be introduced through land-use planning (i.e. planning conditions). The Proposed Conditions do not limit or reduce the Airport's existing capacity since the number of total permitted aircraft movements and the overall number of potential slots for airlines will remain unchanged. No airline operating during the existing operational hours and early morning slots will be required to use new generation aircraft, but it is anticipated that those choosing to operate during the new additional hours and early morning slots with new generation aircraft will also then operate them during other periods resulting in an overall reduction in aircraft noise throughout the year.

(b) There are operating restrictions at the Airport which are expected to apply as part of the appeal proposals but these are existing restrictions which either remain unchanged or which would have a **reduced** effect on limiting access to the Airport or on the operational capacity of the Airport. There are no changes to operating restrictions which should be subject to the EU598 process.

3.19 It should also be noted that the Airport already implements noise abatement operational procedures (referenced in category (iii) above) such as Noise Abatement Departure Procedure 1 and steeper approach gradients (5.5 degrees rather than the standard 3 degrees on final approach), meaning that aircraft are at increased altitude on arrival, thus abating noise impact. The provision of additional noise abatement procedures such as Continuous Descent Operations or flightpath alternation are outside of the current application but are being considered where possible as part of the Airport's Airspace Change Proposal in response to the Government's Future Airspace Strategy Implementation – South (FASI-S) programme. This is subject to a separate control regime under the Air Navigation Regulations 2017 and CAP1616 (CD3.7.29). It is also relevant that the Airport's enhanced SIS is a land-use planning and management noise mitigating measure in line with EU 598 Annex 1 at para 1.4.2(b).

TABLE 3.1: EMBEDDED NOISE MITIGATION MEASURES RELATING TO THE PROPOSED AMENDMENTS AND THEIR RELATIONSHIP TO THE BALANCED APPROACH

| Balanced Approach overarching measure  | Specific measure at the Airport (linked to EU598 Annex 1 as identified in evidence APP-2.A)             | How secured by Conditions and Obligations to CADP1 planning permission (as modified by Proposed Amendments – see colour key below)   |
|--|---|--|
| Reduction of aircraft noise at source  | Technology improvement: New-generation quieter aircraft   | Condition 89 [NEW] (quieter new-gen aircraft only to operate in additional slots created by the Proposed Amendments)   |
|  | Increased proportion, and speed introduction of quieter new-generation aircraft, in fleet renewal plans | Condition 28 (formerly condition 33) [+] (noise contour cap) and Condition 89 [NEW]  |
| Land-use planning and management       | Planning instruments  | National Planning Policy (NPPF CD3.2.1 and PPG-Noise CD3.7.7) informed by Condition 28 (formerly condition 33) [+]   |
|  | Noise [sound] insulation programmes [schemes]   | Condition 26 (formerly condition 31) [=] (Noise Management and Mitigation Strategy - NOMMS) & S106 planning obligations [+]  |
|  | Monitoring of encroachment  | National Planning Policy (NPPF CD3.2.1 and PPG-Noise CD3.7.7)  |
| Noise abatement operational procedures | Noise preferential routes   | Condition 26 (formerly condition 31) [=] (NOMMS)   |
|  | Noise abatement operational procedures  | Condition 26 (formerly condition 31) [=] (NOMMS)   |
| Operating restrictions                 | Global (cap on movements or noise quotas)   | Condition 20 (formerly condition 22) [=] (cap on maximum number of aircraft movements in any hour)<br>Condition 21 (formerly condition 23) [=] (cap on total annual aircraft movements)<br>Condition 18 [=] (Aircraft Noise Categorisation Scheme)   |
|  | Aircraft specific   | Condition 15 (ban on AVRO J100/variant subject to Condition 18) [=]  |
|  | Partial (applying to particular times or days)  | Condition 17 [-] (Aircraft Take-off and land times over specific times on specified days)<br>Condition 21 (formerly condition 23) [-] (caps on movements over specific times on specified days)<br>Condition 23 (formerly condition 25) [-] (cap on movements 0630 to 0659)<br>Conditions 22, 24 and 25 (formerly conditions 24, 26, and 27) [=] (caps on movements over specific times on specified days)<br>Condition 38 (formerly condition 43) [-] (passenger cap) |

- = Proposed Amendments unchanged measure
- + Proposed Amendments increased measure (i.e. tightened requirement compared to CADP1 consent)
- Proposed Amendments reduced measure (i.e. relaxed requirement compared to CADP1 consent)
- NEW Proposed Amendments new measure (i.e. tightened requirement compared to CADP1 consent)

**4. Compliance with EU598 on the assumption that the process applies to the appeal proposals**

4.1 Without prejudice to the Appellant’s view that EU598 does not apply to the planning appeal proposals, if the Proposed Conditions were considered to constitute noise-related ‘operating restrictions’ or the reapplication and reduction of existing operating restrictions were made subject to the EU598 process, then the Appellant agrees with Mr Million’s view that the extensive pre-application consultation undertaken by the Appellant (with airlines, statutory consultees, the Council and other bodies), the statutory consultation undertaken by the Council and the further consultation through the planning appeal satisfy the requirement for consultation before the introduction of noise-related operating restrictions under EU598.

4.2 The Appellant also takes the view that the Proposed Conditions and changes to existing operating restrictions are consistent with the principles of the balanced approach identified in EU598 and that the Secretaries of States have sufficient information before them to discharge their duties as competent authorities under EU598. This is demonstrated in the subsequent sections of this note.

**5. EU598 requirements**

5.1 EU598’s application in England is amended by The Aviation Noise (Amendment) (EU Exit) Regulations 2019 – **CD3.7.16**.

5.2 The technical requirements of EU598 on competent authorities relevant to this stage of the appeal are set out in Article 6 (Rules on noise assessment) which, [as amended in England], are:

*“1. The competent authorities shall ensure that the noise situation at airports for which they are responsible is assessed on a regular basis, in accordance with [the relevant environmental noise regulations]”<sup>7</sup>*

*“2. If the assessment referred to in paragraph 1 indicates that new operating restriction measures may be required to address a noise problem at an airport, the competent authorities shall ensure that:*

*(a) the method, indicators and information in Annex I are applied in such a way as to take due account of the contribution of each type of measure under the Balanced Approach, before operating restrictions are introduced;*

*(b) at the appropriate level, technical cooperation is established between the airport operators, aircraft operators and air navigation service providers to examine measures to mitigate noise. The competent authorities shall also ensure that local residents, or their representatives, and relevant local authorities are consulted, and that technical information on noise mitigation measures is provided to them;*

*(c) the cost-effectiveness of any new operating restriction is assessed, in accordance with Annex II. Minor technical amendments to measures without substantive*

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<sup>7</sup> The relevant environmental noise regulations are The Environmental Noise (England) Regulations 2006 (as amended) **CD3.7.1** as defined by the 2019 Regulations **CD3.7.16** at 5(4) and the consequent amendment to Article 2 of EU598 **CD3.7.14**

*implications on capacity or operations shall not be considered new operating restrictions;*

*(d) the process of consultation with interested parties, which may take the form of a mediation process, is organised in a timely and substantive manner, ensuring openness and transparency as regards data and computation methodologies. Interested parties shall have at least three months prior to the adoption of the new operating restrictions to submit comments. The interested parties shall include at least:*

*(i) local residents living in the vicinity of the airport and affected by air traffic noise, or their representatives, and the relevant local authorities;*

*(ii) representatives of local businesses based in the vicinity of the airport, whose activities are affected by air traffic and the operation of the airport;*

*(iii) relevant airport operators;*

*(iv) representatives of those aircraft operators which may be affected by noise-related actions;*

*(v) the relevant air navigation service providers;*

*[(vi) Eurocontrol, as defined in Article 2(20) of Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the single European sky;]*

*(vii) where applicable, the designated slots coordinator.”*

5.3 Paragraphs 3 and 4 of EU598 Article 6 require the competent authorities to follow up and monitor the implementation of any operating restrictions that flow from paragraphs 1 and 2. EU598 Article 6 paragraphs 3 and 4 are not relevant to this stage of the appeal and are hence not considered further in this paper.

5.4 The following sections of this paper provide a guide to:

- **Section 6:** compliance with EU598 Article 6 paragraph 1 and where information is available to the Secretaries of State in this regard;
- **Section 7:** the method, indicators and information applied, in line with Annex 1 of EU598, to take due account of the contribution of each type of measure under the Balanced Approach, before the possible new operating restrictions noted in Section 5 are introduced (as required by Article 6(2)(a) of EU598); and
- **Section 8:** the cost-effectiveness of the possible new operating restrictions noted in Section 5 assessed in accordance with Annex II of EU598 (as required by Article 6(2)(c) of EU598).

5.5 EU598 Article 6 paragraph 2 (b) and (d) relate to engagement and consultation and are not considered further in this Paper as the Letter observes that the consultations undertaken as

part of both the planning application and appeal processes should serve to satisfy these requirements.

**6. Compliance with EU598 Article 6 paragraph 1**

6.1 The Secretaries of State (as competent authorities) can be assured that the noise situation at the Airport is assessed on a regular basis, in accordance with the Environmental Noise (England) Regulations 2006 (as amended) – the ENRs.

6.2 This is by way of a Noise Action Plan (NAP) prepared by the Airport every five years.

6.3 The draft NAP for 2024 to 2028, that builds on the current approved NAP for 2019 to 2023, is before the Inquiry (**CD3.7.33**) and takes account of the Proposed Amendments that are subject to the appeal.

6.4 It is relevant that the current and draft next NAP:

- **Do not** identify any ‘noise problem’ at the Airport;
- **Do not** identify an Airport specific ‘noise abatement objective’ (though the objectives in governments national Overarching Aviation Noise Policy **CD3.7.3** are noted);
- **Do** identify EU598, the Balanced Approach, and the “*extremely comprehensive set of well-established noise mitigation measures*” in place in line with EU598 and national legislation and policy;
- **Do** identify that the Airport “*has some of the strictest operating restrictions of any airport in the UK*” (with reference to the draft NAP for 2024 to 2028 at Appendix D and Richard Greer’s proof of evidence **APP-2.A** at 7.2.19, this relates to the number of curfew hours for residents around the Airport which is very high, is very unusual and, even with the proposed reduction to the Saturday afternoon curfew, the total curfew hours at the Airport will remain very high, with no other major UK airport having such restrictive operating hours); and
- **Do not** propose any new operating restrictions (and none have been requested in consultation responses or by LBN, DfT or Defra).

6.5 The Proposed Amendments are subject to specific environmental impact assessment including a noise assessment which is published as Chapter 8 (**CD1.15**) of the Environmental Statement which also refers to EU598 as recorded in the Letter.

**7. Method, indicators and information in line with Annex 1 of EU598**

7.1 Table 7.1 sets out what is required by Annex 1 of EU598 regarding the provision of information to inform the consideration by the Secretaries of State (as competent authorities) of the combined measures in the Proposed Amendments should they consider the measures to be new operating restrictions and/or consider that reductions (changes) to existing restrictions are subject to EU598.

7.2 Table 7.1 applies to the consideration of the proposed changes to Conditions 17, 23, 25, 33 and 43 as well as the new Condition 99, without prejudice to the Appellant’s view that none are new operating restrictions and therefore do not need to be considered by EU598.

**TABLE 7.1: INFORMATION REQUIRED BY EU598 ANNEX 1 [AS AMENDED BY THE AVIATION NOISE (AMENDMENT) (EU EXIT) REGULATIONS 2019]**

| Annex 1 requirement  | Where information is presented at the Inquiry   |
|--|---|
| <p><b>Methodology:</b></p> <p>Competent authorities will ensure the use of noise assessment methods which have been developed in accordance with the European Civil Aviation Conference [ECAC] Report Doc 29 entitled ‘Standard Method of Computing Noise Contours Around Civil Airports’, 3rd Edition.</p>  | <p>Noise contours are calculated, as approved by LBN, using AEDT for the Draft NAP for 2024 to 2028 (<b>CD3.7.33</b> at Appendix A), the ES Chapter 8 (<b>CD1.15</b> at 8.3.69) and ES Appendix 8.3 (<b>CD1.39</b> at page 5) in line with CAP2091 (<b>CD3.7.28</b>) that requires modelling in accordance ECAC Doc 29.</p>   |
| <p><b>Indicators:</b></p> <p>1. Air traffic noise impact will be described, at least, in terms of noise indicators <math>L_{den}</math> and <math>L_{night}</math> which are defined and calculated in accordance with [the relevant environmental noise regulations].</p> <p>2. Additional noise indicators which have an objective basis may be used.</p>  | <p>The indicators, including <math>L_{den}</math> and <math>L_{night}</math>, adopted for: a) the Draft NAP for 2024 to 2028 (<b>CD3.7.33</b>) are defined at its Appendices A and B; b) the ES Chapter 8 (<b>CD1.15</b>) are defined in its paragraphs 8.3.58 to 8.3.60; and c) the ES Appendix 8.3 (<b>CD1.39</b>) are defined at its Table 8.3.1.</p>  |
| <p><b>Noise management information:</b></p> <p><u>1. Current inventory</u></p> <p>1.1. A description of the airport, including information about its size, location, surroundings, air traffic volume and mix.</p> <p>1.2. A description of any environmental objectives for the airport and the national context. This will include a description of the aircraft noise abatement objectives for the airport.</p> <p>1.3. Details of noise contours for the relevant previous years — including an assessment of the number of people affected by aircraft noise, carried out in accordance with [the relevant environmental noise regulations].</p> <p>1.4. A description of the existing and planned measures to manage aircraft noise already implemented in the framework of the Balanced Approach and their impact on and contribution to the noise situation, by reference to:</p> <p>1.4.1. For reduction at source:</p> <p>(a) information on the current aircraft fleet and any expected technology improvements;</p> <p>(b) specific fleet renewal plans.</p> | <p>1.1. ES Chapter 2 ‘Site Description’ (<b>CD1.9</b>), Chapter 4 ‘Aviation Forecasts’ (<b>CD1.11</b>)</p> <p>1.2. Para 3.1.4 in this paper notes that no ‘noise problem’ or ‘noise abatement objectives’ have been identified for the Airport the NAPs. The national aviation noise objectives are set out in R Greer’s evidence <b>APP-2.A</b> at section 13.10.</p> <p>1.3. Draft NAP for 2024 to 2028 (<b>CD3.7.33</b> at Appendices A and B), the ES Chapter 8 (<b>CD1.15</b> at Section 8.6) and ES Appendix 8.3 (<b>CD1.39</b> at Table 8.3.1 and associated Figures)</p> <p>1.4.1. Draft NAP for 2024 to 2028 (<b>CD3.7.33</b> at Section 3.1), the ES Chapter 4 ‘Aviation Forecasts’, ES Chapter 8 (<b>CD1.15</b> at Table 8-7), ES Appendix 8.3 (<b>CD1.39</b> at Tables 8.3.3 and 8.3.4 and associated text) and R Greer Evidence (<b>APP-2.A</b> at Section 6.3).</p> |

| Annex 1 requirement  | Where information is presented at the Inquiry   |
|--|---|
| <p>1.4.2. For land-use planning and management:</p> <p>(a) planning instruments in place, such as comprehensive planning or noise zoning;</p> <p>(b) mitigating measures in place, such as building codes, noise insulation programmes or measures to reduce areas of sensitive land use;</p> <p>(c) consultation process in respect of the land-use measures;</p> <p>(d) monitoring of encroachment.</p>  | <p>1.4.2.</p> <p>(a) NPPF (<b>CD3.2.1</b>), PPG-Noise (<b>CD3.7.7</b>), London Plan (<b>CD3.3.1</b>) and Newham Local Plan (<b>CD3.4.1 and CD3.4.2</b>)</p> <p>(b) The Airport's Sound Insulation Scheme (SIS) and its enhancements are set out in the ES CH 8 (<b>CD1.15</b> at 8.5.31 and Table 8-108), R Greer evidence (<b>APP-2.A</b> at Table 6.1) and the S106 fifth deed of variation (<b>CD12.7</b>).</p> <p>(c) The enhanced SIS formed part of the Appellant's non-statutory consultation on the Proposed Amendments (<b>APP-2.A</b> Section 4).</p> <p>(d) The responsibility of the Local Planning Authority in line with the extant planning instruments (see above) as set out in R Greer's Evidence (<b>APP-2.A</b> R Greer Evidence (<b>APP-2.A</b>)).</p> |
| <p>1.4.3. For noise abatement operational measures, to the extent that those measures do not restrict the capacity of an airport:</p> <p>(a) use of preferential runways;</p> <p>(b) use of noise-preferential routes;</p> <p>(c) use of noise abatement take-off and approach procedures;</p> <p>(d) indication of the extent to which those measures are regulated under environment indicators[].</p>   | <p>1.4.3. ...</p> <p>(a) N/A</p> <p>(b), (c) and (d). These measures are set out in the draft NAP (<b>CD3.7.33</b> at Section 6), are covered by NOMMS, and the measures are included in the noise modelling and assessment (<b>CD1.15</b> at Section 8.5). However, these measures cannot be changed by the planning regime. Changes would be made as necessary as part of the Airport's developing Airspace Change Proposal (<b>APP-2.B-2</b> at 2.1.8 and 2.1.9).</p>  |
| <p>1.4.4. For operating restrictions:</p> <p>(a) use of global restrictions, such as a cap on movements or noise quotas;</p> <p>(b) use of aircraft-specific restrictions, such as the withdrawal of marginally compliant aircraft;</p> <p>(c) use of partial restrictions, drawing a distinction between daytime measures and night-time measures.</p> <p>1.4.5. The financial instruments in place, such as noise-related airport charges.</p> | <p>1.4.4.</p> <p>(a), (b) and (c). The existing restrictions and their proposed reduction (relaxation) by the Proposed Amendments are set out in R Greer's evidence (<b>APP-2.A</b> Section 6).</p> <p>1.4.5. Financial instruments are set out in the draft NAP for 2024 to 2028 (<b>CD3.7.33</b> at Appendix F).</p>  |

| Annex 1 requirement   | Where information is presented at the Inquiry   |
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| <p><a href="#">2. Forecast without new measures</a></p> <p>2.1. Descriptions of airport developments, if any, already approved and in the pipeline, for example, increased capacity, runway and/or terminal expansion, approach and take-off forecasts, projected future traffic mix and estimated growth and a detailed study of the noise impact on the surrounding area caused by expanding the capacity, runways and terminals and by modifying flight paths and approach and take-off routes.</p> <p>2.2. In the case of airport capacity extension, the benefits of making that additional capacity available within the wider aviation network and the region.</p> <p>2.3. A description of the effect on noise climate without further measures, and of those measures already planned to ameliorate the noise impact over the same period.</p> <p>2.4. Forecast noise contours — including an assessment of the number of people likely to be affected by aircraft noise — distinguishing between established residential areas, newly constructed or planned residential areas and planned future residential areas that have already been granted authorisation by the competent authorities.</p> <p>2.5. Evaluation of the consequences and possible costs of not taking action to reduce the impact of increased noise if it is expected to occur.</p> | <p>2.1. ES Chapter 2 ‘Site Description’ (<b>CD1.9</b>), Chapter 4 ‘Aviation Forecasts’ (<b>CD1.11</b>) and draft NAP (<b>CD3.7.33</b> at section 3).</p> <p>2.2. ES Chapter 4 ‘Aviation Forecasts’ (<b>CD1.11</b>), Chapter 7 ‘Socio-Economics’ (<b>CD1.14</b>) and the evidence of L Congdon (<b>APP-1.A</b>).</p> <p>2.3. &amp; 2.4. ES Chapter 8 (<b>CD1.15</b> at Section 8.6) and Appendix 8.3 (<b>CD1.39</b> - noise contour figures) report the noise climate without and with further measures as ‘do-minimum’ and ‘Development Case’ (DC) scenarios for each assessment year. The DC assessments consider all measures together as they are interdependent. For example, the commitment to quieter new-gen aircraft in new slots is for aircraft with a greater seating capacity than current-gen aircraft, that also provide greater efficiency. So, the ability to fly new longer sector routes and grow passenger numbers (with the consumer and economic benefits this brings) are dependent on the commitment to quieter aircraft (<b>APP-1.A</b>).</p> <p>2.5. ES Ch 8 (<b>CD1.15</b> at Table 8-7) sets out the noise reduction of quieter new-gen (with greater capacity and greater efficiency) compared to current-gen aircraft. It follows that not committing to new-gen aircraft for the new-slots and not committing to a smaller noise contour area cap when the targeted passenger growth is achieved would result in: a) greater, likely significant, adverse noise effects from the new slots; b) greater associated environment health impacts (and costs if monetised); c) reduced consumer and economic benefits – <b>CD1.14</b> and <b>APP-1.A</b>; d) a failure to share the benefits of new technology between industry and communities as required by UK aviation policy (as the reduced contour cap upon reaching 9 mppa incentivises wider refueling to larger and quieter new-gen aircraft increases industry benefits and decreases community weekday noise effects); and e) a failure to reduce some of the existing restrictions (with associated economic benefit) without causing significant adverse noise effects at night or weekends.</p> |

| Annex 1 requirement  | Where information is presented at the Inquiry   |
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| <p><a href="#">3. Assessment of additional measures</a></p> <p><a href="#">3.1. Outline of the additional measures available and an indication of the main reasons for their selection. Description of those measures chosen for further analysis and information on the outcome of the cost-efficiency analysis, in particular the cost of introducing those measures; the number of people expected to benefit and the timeframe; and a ranking of the overall effectiveness of particular measures.</a></p> <p><a href="#">3.2. An overview of the possible environmental and competitive effects of the proposed measures on other airports, operators and other interested parties.</a></p> <p><a href="#">3.3. Reasons for selection of the preferred option.</a></p> <p><a href="#">3.4. A non-technical summary.</a></p> | <p>3.1. The ‘additional’ embedded measures are the commitments to: a) quieter (greater capacity &amp; more efficient) new-gen aircraft for new slots; and b) a smaller noise contour area cap once the targeted passenger growth is achieved, as part of c) reducing (relaxing) a number of existing operating restrictions (Saturday PM curfew and limit on early morning aircraft movements). The cost-efficiency (material net consumer, economic and socio-economic benefit taking account of the costs to introduce the measures) is set out in the evidence of L Congdon (<b>APP-1.A</b>). The number of people expected to benefit in noise terms and the relevant timeframes is reported in Section 8.6 of Ch 8 of the ES (<b>CD1.15</b>). It is not possible to rank the effectiveness of the measures as they are all required and are interdependent (see 2.5 comments).</p> <p>3.2 The evidence of L Congdon (<b>APP-1.A</b>) identifies the competitive benefits of the proposed measures (reduced operating restrictions) on other airports, operators and other interested parties.</p> <p>3.3. See comments on 3.1 above.</p> <p>3.4 The non-technical summary of the ES (<b>CD1.7</b>) summarises the proposed measures, their noise performance, the resulting consumer, economic and socio-economic benefits and hence their cost-effectiveness.</p> |

**8. Cost-effectiveness in line with Annex 2 of EU598**

- 8.1 Table 8.1 sets out what is required by Annex 2 of EU598 regarding the provision of information to inform the consideration by the Secretaries of State (as competent authorities) of the combined measures in the Proposed Amendments should the authorities consider the measures to be new operating restrictions and/or consider that reductions (changes) to existing restriction are subject to EU598.
- 8.2 Table 8.1 applies to the consideration of the combined changes to Conditions 17, 23, 25, 33 and 43 as well as the new Condition 99, because the measures implemented by the conditions are interdependent as noted in Table 7.1.

**TABLE 8.1: COST-EFFECTIVENESS ASSESSMENT REQUIRED BY EU598 ANNEX 2 [AS AMENDED BY THE AVIATION NOISE (AMENDMENT) (EU EXIT) REGULATIONS 2019]**

| Annex 2 requirement  | Where information is presented at the Inquiry   |
|--|---|
| <p>The cost-effectiveness of envisaged noise-related operating restrictions will be assessed taking due account of the following elements, to the extent possible, in quantifiable terms:</p> <p>(1) the anticipated noise benefit of the envisaged measures, now and in the future;</p> <p>(2) the safety of aviation operations, including third-party risks;</p> <p>(3) the capacity of the airport;</p> <p>(4) any effects on the [United Kingdom] aviation network.</p> | <p>1) ES Ch 8 (<b>CD1.15</b> at Tables 8-7, 8-22, 8-23, 8-24, 8-54, 8-56 &amp; 8-58) sets out the noise reduction of quieter new-gen aircraft (with greater capacity and greater efficiency) compared to current-gen aircraft, the consequent benefit of a reduced daytime contour area and reduced number of people affected once the Airport has grown to 9 mppa, plus the consequent benefit in allowing reduction of the Saturday afternoon and early morning operation restrictions without significant adverse noise effects.</p> <p>2) The ES Ch 4 (<b>CD1.11</b>) does not identify any safety of aviation operations, or third-party risks arising from the measures (were they to be considered new restrictions or changes to existing restrictions).</p> <p>3) The ES Ch 4 (<b>CD1.11</b>) identifies the increases in capacity made available in the early morning (Mon to Sat) and Saturday afternoons as well as the overall increase in passenger capacity (to 9 mppa).</p> <p>4) The ES Ch 4 (<b>CD1.11</b>) does not identify any effects on the UK aviation network arising from the measures (were they to be considered new restrictions or changes to existing restrictions).</p> |
| <p>In addition, competent authorities may take due account of the following factors:</p> <p>(1) the health and safety of local residents living in the vicinity of the airport;</p>  | <p>1) The ES Ch 12 (<b>CD1.19</b>) identifies no significant adverse public health effects arising from noise changes due to the proposed development but does identify significant beneficial health effects for the</p>   |

| Annex 2 requirement  | Where information is presented at the Inquiry   |
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| <p>(2) environmental sustainability, including interdependencies between noise and emissions;</p> <p>(3) any direct, indirect or catalytic employment and economic effects</p> | <p>local population due to the socio-economic effects of the Airport's growth. ES Ch 4 (CD1.11) does not identify any safety risks.</p> <p>2) ES Ch 11 (CD1.18) identifies no Climate Change (carbon) significant adverse effects of the combined measures as the new-gen aircraft are more fuel efficient (lower carbon) than current-gen aircraft.</p> <p>3) ES Ch 7 (CD1.14) and the evidence of L Congdon (APP-1.A) identify the material direct, indirect and catalytic employment and economic beneficial effects of the combined measures.</p> |

Town Legal LLP  
24 January 2024