

LONDON BOROUGH OF NEWHAM

DEVELOPMENT CONTROL COMMITTEE

14th January 2009

Application Number: 07/01510/VAR

Validation date: 06.08.2007

Location: London City Airport,
Hartmann Road,
Silvertown,
London,
E16 2PX

Ward: Royal Docks

Applicants: London City Airport Ltd

Agent: RPS Planning

Purpose of Report / Proposal

Application under Section 73 of the Town and Country Planning Act 1990 to vary conditions 13 and 15 of the outline planning permission no.N/82/104 dated 23 May 1985, as previously varied by the Secretary of State on the 26 September 1991 and by the London Borough of Newham on 21 July 1998 and 11 July 2007, to allow up to 120,000 total aircraft movements per annum (number of total movements in 2006 was 79,616) with related modifications to other limits.

This is an update report, following a late representation received after Development Control Committee resolved on the 8th October 2008 to grant planning permission subject to completion of a S106 agreement.

Recommendations

It is recommended that the Committee confirms its resolution made on 8 October 2008 which was in the following terms:

1) to agree the reasons for approval and that they are minded to GRANT planning permission for this application subject to the completion of a legal agreement in accordance with the Heads of Terms set out in Section 11 of the addendum report (Appendix 3), and subject to the inclusion of conditions set out below.

2) to delegate authority to the Borough Planning Officer to finalise negotiation on i) Heads of Terms for an agreement under Section 106 of the Town and Country Planning Act and ii) the precise wording for the conditions to be included with any consent.

3) to delegate authority to the Borough Planning Officer to determine this application after completion of an agreement under Section 106 of the Town and Country Planning Act.

Conditions and Reasons:

The current application proposes to vary conditions 13 and 15 of the outline planning permission dated 23rd May 1985, as previously varied by the Secretary of State on 26th September 1991 and by the London Borough of Newham on 21 July 1998 and 11 July 2007 to allow up to 120,000 total movements per annum with related modifications to the daily and other limits including noise factored movements.

Should the proposal be acceptable to the Council, the correct procedure is for the Council to issue a new decision notice that includes both the relevant outstanding planning conditions and those which are sought to be varied under the Application (conditions 13 and 15).

A composite set of conditions is provided below for ease of reference. This identifies which conditions have been inserted, varied or deleted by previous planning permissions referred to above;

In addition, the composite conditions identify the changes proposed to conditions 13 and 15 under the current proposals and the necessary consequential changes to other conditions to replace 'Air Transport Movements' with 'aircraft movements' to ensure that the wording of all conditions is consistent.

Composite Description of Development

Outline planning permission for the layout, construction and use of an aerodrome for use by short-take-off-and-landing type aircraft, known as STOLport, on land adjacent to the Royal Albert Dock and King George V Dock, Newham E16 (condition 4 subsequently varied and condition 5 subsequently deleted by planning permission LRP219/J9510/017; conditions 6, 10, 11, and 12 subsequently varied and conditions 15 and 16 subsequently added by planning permission P/97/0826; condition 13 subsequently varied by planning permission 06/0131/VAR; and conditions 13 and 15 subsequently varied again by planning permission 07/01510/VAR (subject of this report).

Composite Conditions

Permission is granted subject to the following planning conditions:

- (1) Approval of details of the layout of the runway and the siting, design and external appearance of the buildings and other structures (including plant and machinery), the means of access thereto (including the location of any emergency access gates) and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the local planning authority.
- (2) Application for approval of the "reserved matters" shall be made to the local planning authority not later than 3 years from the date of this letter.
- (3) The development hereby permitted shall be begun on or before whichever is the later of the following dates:
 - (i) 5 years from the date of this letter; or
 - (ii) The expiration of 2 years from the final approval of the reserved matters or, in

the case of approval on different dates, the final approval of the last such matters to be approved.

- (4) No runway designated for the use of aircraft shall exceed 1199 metres in length.
- ~~(5)~~ [Deleted by 1991 permission]
- (6) Except in cases of emergency, only conventional take-off and landing fixed-wing aircraft (including short take-off and landing aircraft) but not vertical take-off and landing aircraft (including helicopters) shall be permitted to use the Airport.
- (7) The STOLport shall not be used for any form of club or recreational flying.
- (8) No part of the site or any of the buildings thereon shall be used for any purposes other than purposes connected with the provision of air services at the STOLport.
- (9) The STOLport shall not be brought into use until a perimeter fence and noise barriers, of such a type and in such positions as may be approved by the local planning authority have been erected; and such barriers and fences are thereafter to be maintained in good condition.
- (10) The ground running of aeroplane engines for testing or maintenance purposes shall take place only between the hours of 0630 and 2200 hours from Monday to Friday inclusive and between the hours of 0630 and 1230 hours on Saturdays, 1230 and 2200 hours on Sundays and 0900 and 2200 hours on Bank Holidays and Public Holidays (but not at all on Christmas Day) and:
 - (i) In such locations and with such orientations of the aircraft as may be agreed in writing with the local planning authority and
 - (ii) Employing such noise protection measures as may be agreed in writing with the local planning authority.
- (11a) The Airport shall not be used for the taking off or landing of aircraft at any time other than between 0630 and 2200 hours from Monday to Friday inclusive and between 0900 and 2200 hours on Bank Holidays and Public Holidays except:
 - (a) In the event of an emergency
 - (b) For the taking off or landing between 2200 and 2230 hours of an aircraft which was scheduled to take off from or land at the Airport before 2200 hours but which has suffered unavoidable operational delays and where that taking off or landing would not result in there being more than 400 aircraft movements at the Airport per calendar year between 2200 and 2230 hours or more than 150 such movements in any consecutive three months.
- (11b) From the date of this permission until 31 March 1999 the Airport shall not be used for the taking off or landing of aircraft on Saturdays at any time other than between 0630 and 1300 hours except:
 - (a) In the event of an emergency

- (b) For the taking off or landing between 1300 and 1330 hours on Saturdays of an aircraft that was scheduled to take off from or land before 1300 hours but has suffered unavoidable operational delays and where that taking off or landing would not result in there being more than 400 air transport movements at the Airport per calendar year between 1300 and 1330 hours or more than 150 such movements in any consecutive three months.
 - (c) The taking off or landing of aircraft between 1300 hours and 1800 hours on one Saturday per calendar year for the airport's charity open day.
- (11c) From 1 April 1999 the Airport shall not be used for the taking off or landing of aircraft on Saturdays at any time other than between 0630 and 1230 hours except:
 - (a) In the event of an emergency
 - (b) For the taking off or landing between 1230 and 1300 hours on Saturdays of an aircraft that was scheduled to take off or land before 1230 hours but has suffered unavoidable operational delays and where that taking off or landing would not result in there being more than 400 aircraft movements at the airport per calendar year between 1230 and 1300 hours or more than 150 such movements in any consecutive three months.
 - (c) The taking off or landing of aircraft between 1230 hours and 1800 hours on one Saturday per calendar year for the Airport's charity open day.
- (11d) From the date of this permission until 31 March 1999 the Airport shall not be used for the taking off or landing of aircraft on Sundays at any time other than between 1200 and 2200 hours except:
 - (a) In the event of an emergency
 - (b) For the taking off or landing between 2200 and 2230 hours of an aircraft which was scheduled to take off from or land at the Airport before 2200 hours but which has suffered unavoidable operational delays and where that taking off or landing would not result in there being more than 400 aircraft movements at the Airport per calendar year between 2200 and 2230 hours or more than 150 such movements in any consecutive three months.
- (11e) From 1 April 1999 the Airport shall not be used for taking off or landing of aircraft on Sundays at any time other than between 1230 hours and 2200 hours except:
 - (a) In the event of an emergency
 - (b) For the taking off or landing between 2200 and 2230 hours of an aircraft which was scheduled to take off from or land at the airport before 2200 hours but which has suffered unavoidable operational delay, and where that taking off or landing would not result in there being more than 400 aircraft movements at the Airport per calendar year between 2200 and 2230 hours or more than 150 such movements in any consecutive three months.
- (11f) For the purposes of sub-paragraph (b) of each condition 11(a), 11(b), 11(c), 11(d),

and 11(e) the figures of 400 aircraft movements and 150 aircraft movements shall in each case include all aircraft movements by aircraft which have suffered operational delays between the hours specified in each sub-paragraph on Mondays to Fridays, on Saturdays, on Sundays and on Bank and Public Holidays and the expression 'aircraft movements' shall mean the take-off or landing of an aircraft at the Airport, other than those engaged in training or aircraft testing.

(12) (1) No type of aircraft may, save in an emergency, use the Airport unless the noise level of that aircraft complies with a category established in accordance with this condition.

(2) Aircraft types using the airport shall be placed in categories and allocated noise factors as set out below:

Category	Noise Reference Level	Noise Factor
A	91.6-94.5	1.26
B	88.6-91.5	0.63
C	85.6-88.5	0.31
D	82.6-85.5	0.16
E	Less than 82.6	0.08

where the noise reference level is the departure noise level at the four noise categorisation locations shown in Figure 1 annexed to this permission, expressed in PNdb and established as set out below.

(3) Before any aircraft shall use the Airport a provisional noise categorisation for that aircraft type shall be approved in writing by the local planning authority and shall be based on the results of monitored trial flights of the particular aircraft type from the airport carried out in accordance with written proposals (including details as to how the trial flights are to be organised) before any such trial flights take place to be submitted to and approved in writing by the local planning authority.

(4) Annually on 1 July the provisional categorisation of each approved aircraft type shall be reviewed (PROVIDED THAT if the provisional categorisation for an aircraft type has been approved in the period between 1 January and 31 March of the year in question then the provisional categorisation of that aircraft type shall be reviewed on 31 March in the following year) having regard to the departure noise levels recorded in accordance with paragraph (6) below, and by 31 March each year details shall be submitted in writing to the local planning authority of the results of the review whereupon the provisional categorisation of each approved aircraft type shall be confirmed or amended in agreement in writing with the local planning authority having regard to the monitored values.

(5) Any such amendment may, with the agreement in writing of the local planning

authority, include the introduction of sub-categorisation into narrower bands provided that noise factors appropriate to any such bands are calculated and applied.

(6) The Airport shall for the above purposes operate a system of continuous noise monitoring at positions as close as practicable to the four noise categorisation location shown in Figure 1*; the details of the system are to be as approved in writing by the local planning authority and the results made available to the local planning authority.

*(Figure 1 relates to a plan appended to the 1998 s106 Agreement which shows the locations of noise monitoring points.)

(7) On every annual review of the provisional categorisation of each approved aircraft type a 57 LAeq contour (average mode) produced in accordance with the methods adopted by the Civic Aviation Authority and published in DORA 9023 or any publication modifying or extending DORA 9023 shall be submitted to the local planning authority.

Varied Condition

(13)

(1) The number of ~~air transport aircraft~~ movements at the Airport shall not exceed:

- (a) ~~50 100~~ per day on Saturdays and ~~400 200~~ per day on Sundays but not exceeding ~~140 280~~ on any consecutive Saturday and Sunday
- (b) ~~360 592~~ per day on weekdays except 1 January, Good Friday, Easter Monday, the May Day holiday, the late May bank holiday, the late August bank holiday, 25 December and 26 December
- (c) ~~80 132~~ on 1 January
- (d) ~~400 164~~ on Good Friday
- (e) ~~420 198~~ on Easter Monday
- (f) ~~450 248~~ on the May Day Holiday
- (g) ~~440 230~~ on the late May Bank Holiday
- (h) ~~440 230~~ on the late August Bank Holiday
- (i) ~~60 100~~ on 26 December
- (j) ~~73,000 120,000~~ per calendar year.

(2) In the event of their being a Bank Holiday or Public Holiday in England which falls upon or is proclaimed or declared upon a date or dates not referred to in sub-paragraph (c) to (i) (inclusive) of condition 13 (1) then the number of ~~air transport aircraft~~ movements permissible on that date shall not exceed ~~200 330~~ unless the local planning authority otherwise agrees in writing but in any event the limit for any particular date or dates shall not exceed ~~240 396~~ per day.

(3) For the purposes of conditions 13 (1), 13 (2), and 13 (4) the expression 'aircraft movements' shall mean the take-off or landing of an aircraft at the Airport, other than those engaged in training or aircraft testing ~~'air transport movements' shall mean air~~

~~transport movements by civil aircraft in the transport of passengers, cargo, or mail on commercial terms and shall include movements by aircraft engaged in sightseeing tours.~~

(4) The number of factored movements shall not exceed:

(a) In any one week the number of permitted ~~air transport aircraft~~ movements for that week by more than ~~15%~~ 25%

(b) ~~73,000~~ 120,000 per calendar year.

(5) For the purpose of condition 13(4) the number of factored movements shall be calculated by multiplying the number of take-offs and landings by each aircraft by the relevant noise factor for an aircraft of this type under condition 12 and adding together the totals for each aircraft type using the Airport.

- (14) During the period of construction of the STOLport pile-driving shall take place only between the hours of 0800 and 1900 from Monday to Saturday inclusive.

Varied Condition

(15)

Between 0630 and 0659 hours on Mondays to Saturdays (excluding Bank Holidays and Public Holidays when the airport will be closed between these times) the number of ~~air transport aircraft~~ movements shall not exceed 6 on any day.

- (16) The Airport shall be closed on Christmas Day each year and no take-offs or landings of aircraft of any kind and no ground running by aircraft engines shall take place on Christmas Day save in the event of an emergency and save that the restriction in this condition shall not prevent other activities taking place at the Airport on Christmas Day where any noise generated is not discernible at the boundaries of the airport.

Additional Condition

(17)

Notwithstanding the total restriction on flights between 0630 and 0659 hours, as set out by Condition 15. The total number of aircraft movements in the period between 0630 and 0645 on Mondays to Saturdays (excluding Bank Holidays and Public Holidays when the airport will be closed between these times), shall not exceed 2 on any day.

Reason: In the interests of protecting environmental amenity from noise impacts at a very sensitive part of the day, in accordance with Policies 4A.20 (Reducing Noise and Enhancing Soundscapes) of the London Plan (Consolidated February 2008) and EQ48 (Noise-Sensitive Development) of the Unitary Development Plan (adopted June 2001, saved from the 27th of September 2007 in accordance with the direction from the Secretary of State).

* It is recognised that this list includes several conditions that have now been complied

with or are no longer relevant.

NAME OF LEAD OFFICER: Bernadette Marjoram
POSITION: Joint Interim Executive Director of Regeneration, Planning & Property

Originator of report: Sunil Sahadevan
Tel no: 020 8430 2630
E-mail address: sunil.sahadevan@newham.gov.uk

Human Rights Act

The provisions of the Human Rights Act 1998 have been taken into account in the processing of the application and the preparation of this report.

Local Government (Access to Information) Act 1985

Background papers used in preparing this report:

- Local Government (Access to Information) Act 1985
- Background Papers Used in Preparing this Report
- Planning Application
- Statutory Register of Planning Decisions
- Correspondence with Adjoining Occupiers
- Correspondence with Statutory Bodies
- Correspondence with other Council Departments
- London Plan
- UDP, SPGs
- Other relevant guidance

List of enclosures / Appendices:

- Appendix 1: Images and Plans of existing site and surroundings
- Appendix 2: Letter from Friends of the Earth dated 3/12/08
- Appendix 3: Addendum Officer Report
- Appendix 4: Committee Update 8/10/08
- Appendix 5: Original Officer Report

Report

1. Synopsis

- 1.1 This report should be read as an update to the main reports on application 07/01510/VAR (attached in Appendix 3, 4 and 5).
- 1.2 The original application was to be considered at the 30th July 2008 Committee and the report (see Appendix 5) was published for that agenda. Following comments received from the GLA on the day of Committee, it was resolved that the item should be deferred.
- 1.3 The issue raised by the GLA was then resolved and their objection was withdrawn. An addendum report (see Appendix 3) accompanied by Committee updates (see Appendix 4) was then presented at Committee on the 8th October 2008. Members resolved that they were minded to grant planning permission subject to completion of a S106 legal agreement. Delegated authority was also granted to the Borough Planning Officer to finalise negotiations on the legal agreement and to determine the application.
- 1.4 Since the Committee's resolution, late representations have been received from Friends of the Earth (a copy of their letter dated 3 December 2008 is attached at Appendix 2). Friends of the Earth contend that a race equalities impacts should be carried out before planning permission is granted.
- 1.5 Despite the resolution to delegate authority to the Borough Planning Officer to grant planning permission, officers consider that this issue should be brought back to Committee as an update, and for Committee to consider whether to revisit its recommendation to grant planning permission in light of these representations.
- 1.6 Officer's recommended course of action is that the Committee confirms its previous resolution for the reasons explained in section 2 of this report. It is not considered necessary in relation to this application for a race equality impact assessment to be carried out. Officers are satisfied that the decision of the Committee as reflected in its previous resolution is compatible with the Council's duties under s.71 of the Race Relations Act (as amended).

2. Race Equalities Impact

- 2.1 Friends of the Earth made some late representations on the 13th November 2008 and again on 3rd December 2008, that they considered that the proposal would have serious potential race equalities impacts, and that this was not considered with the original assessment of the proposals. Friends of the Earth had made previous comments on the application but this was the first time this particular issue was raised by them. An extensive consultation exercise was carried out following the receipt of the application and this issue was not raised by anyone.
- 2.2 Section 71 (1) of the Race Relations Act 1976 (as amended), requires the Council in exercise of its functions to have due regard to;
 - (a) the need to eliminate racial discrimination,
 - (b) the need to promote equality of opportunity and
 - (c) the need to promote good relations between persons of different racial groups.

- 2.3 The Council's duties under the Race Relations Act are a material consideration in the determination of any planning application.
- 2.4 However, this does not mean that a Race Equalities Impact Assessment is necessary for all planning applications. Equality impact assessments play an important role in the formulation of planning policies, however, their use in respect of specific applications is very much the exception rather than the norm. Taking proper account of the guidance contained in The London Plan Supplementary Guidance on Planning for Equality and Diversity in London and in particular paragraph 2.6, the Council consider that there is no requirements for a Race Equalities Impact Assessment.
- 2.5 Officer's consider that there is no legal requirement for a specific impact assessment to be carried out. Nevertheless, as has previously been noted, s.71 of the Race Relations Act is a material consideration in the determination of the planning applications.
- 2.6 The previous reports to committee did not make specific reference to Section 71 of the Race Relations Act and accordingly it has been considered appropriate for officer's assessment of this issue to be reported back to committee and for the committee to consider whether it has any possible bearing on the resolution made previously.
- 2.8 Officer's do not consider that any specific concerns relevant to the compatibility of the proposed development with the Council's obligations under s.71 of the Race Relations Act arise. This view is consistent with the absence of any expression of concern about race equality impacts during the consultation process. The effects of the proposal have been assessed in detail in previous reports to committee. Members will recall for example that noise, air quality, health effects and socio economic issues were discussed in that report. In relation to health, a multi-disciplinary assessment was undertaken to ensure that the decision taken in respect of the planning application will maximise health gains and reduce or remove negative impacts or inequalities (see paragraph 9.3.1 of the previous report). That assessment concluded that there would not be adverse health impacts and identified significant socio-economic benefits at local and regional level (see paragraph 9.3.5 of the previous report). The Health Impact Assessment noted the ethnic composition of the people affected by the proposal and was assessed by Newham PCT who are well aware of ethnic composition of the Borough. In the light of the conclusions of the health impact assessment it is concluded that there were no undue health impacts to the proposal and that significant socio-economic benefits would also be delivered. This conclusion together with the assessment of the impacts of the proposal contained in the previous report, lead officers to conclude that there is no incompatibility between the Committee's resolution and the Council's duties under s.71 of the Race Relations Act.

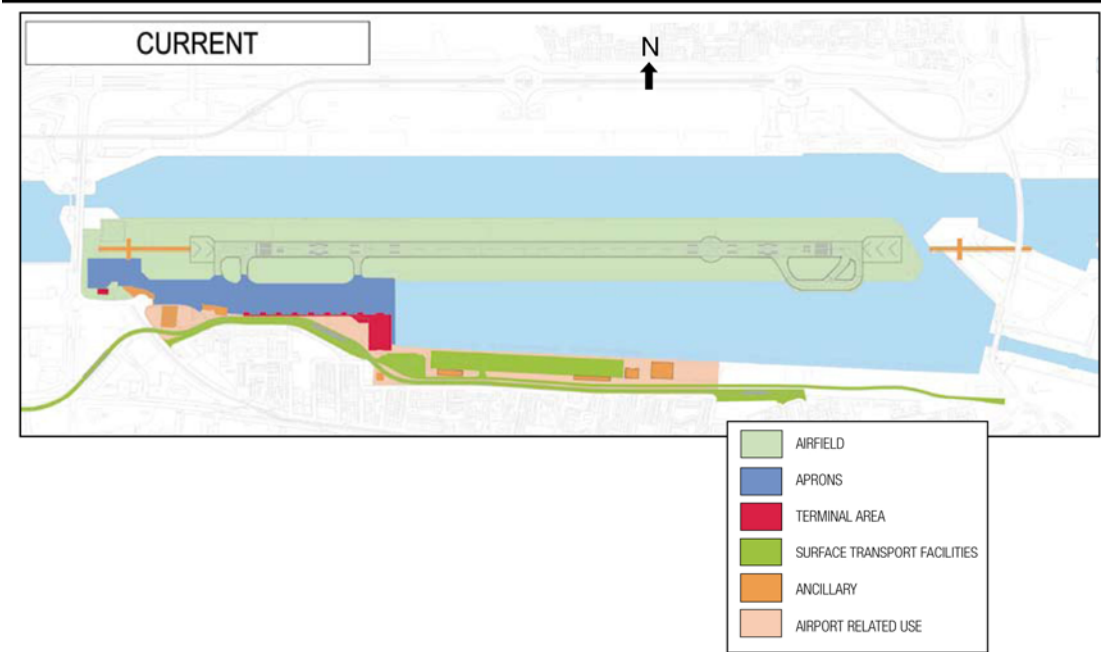
3. Conclusions

- 3.1 Section 71 of the Race Relations Act 1976 (as amended) requires the Council in the exercise of its functions to have due regard to the need to (a) eliminate racial discrimination (b) the need to promote equality of opportunity and (c) the need to promote good relations between persons of different racial groups. This duty applies to decisions made on the determination of a planning application.
- 3.2 No specific issues have been raised in the consultation process which bears on this duty and it is considered that granting planning permission for this proposal (the effects of which have been comprehensively assessed in the reports previously

before the Committee) would be consistent with the Council's duties under this provision.

- 3.3 Therefore, it is recommended that Members should confirm its previous resolution made on 8 October 2008.

Appendix 1: Images and Plans of existing site and surroundings



Appendix 2: Letter from Friends of the Earth dated 3/12/08

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