

LONDON CITY AIRPORT - NOISE INSULATION PAYMENT SCHEME

Proposals to allow certain proposed developments to benefit early from the noise insulation scheme operated by London City Airport

1. Introduction

- 1.1 We are required to put a scheme into place to allow certain proposed developments to benefit early from the Airport's noise insulation schemes. This scheme is known as the Noise Insulation Payments Scheme ("NIPS").
- 1.2 A number of defined terms from the Section 106 Agreement relating to noise are used in this explanatory document. Please refer to the Glossary at the end.

2. Background

- 2.1 Planning permission ("the Airport's Planning Permission") was granted on 9 July 2009 (reference 07/01510/VAR) by the London Borough of Newham ("the Council") for variation of conditions attached to previous planning permissions for the Airport to allow up to 120,000 total aircraft movements per year (with related modifications to other limits on aircraft movements).
- 2.2 The Airport's Planning Permission was subject to an agreement under Section 106 of the Town and Country Planning Act 1990 dated 9 July 2009 ("Section 106 Agreement"). Under the Section 106 Agreement the Airport is required to prepare the NIPS and consult with those persons likely to benefit significantly from the scheme. The resulting NIPS, which is explained in this document, has been informed by this consultation.
- 2.3 The aim of the NIPS is to compensate landowners and developers for the reasonable incremental costs of supplying and fitting additional noise insulation measures at certain proposed developments to mitigate against the noise effects of the increase in aircraft movements permitted by the Airport's Planning Permission. The proposed developments must consist of residential premises and Public Buildings situated on land:
- within the Full Use 57 dB Contour but outside the 1998 57dB Contour; or
 - within the Full Use 66 dB Contour.

3. The Noise Insulation Payment Scheme

3.1 Eligible Persons

- (a) A person (or any successor and any one deriving title in the land or under contract) is eligible to receive a payment under the NIPS if at the date of application under the NIPS and the date of payment by the Airport under the NIPS that person (or any successor and any one deriving title in the land or under contract):

1. is:

- the owner of the freehold interest in Eligible Land; or
- the owner of a leasehold interest in Eligible Land; or
- the developer under a building agreement or agreement for lease relating to Eligible Land; **and**

2. will incur the increased costs of noise insulation identified below during the construction of an "Eligible Development" on "Eligible Land" (see paragraphs 3.2 and 3.3 for definitions of these terms).

- (b) For the avoidance of doubt a payment in respect of any phase of Eligible Development which becomes due under the NIPS will be made once only to one person.

3.2 *Eligible Land*

- (a) Eligible Land is land which is either within the Full Use 57 dB Contour but outside the 1998 57dB Contour or within the Full Use 66 dB Contour. These contours are shown on the plans attached to this NIPS at appendix 1.

3.3 *Eligible Development*

- (a) A development is an Eligible Development if:
1. the development comprises or includes residential dwellings and/or Public Buildings (the "relevant buildings");
 2. planning permission was granted for the development before 9 July 2009; and
 3. construction of relevant buildings forming part of the development had not been commenced on or before 8 July 2009 at the time that an Eligible Person applies for assistance under the NIPS but the relevant buildings remain capable of construction pursuant to the relevant planning permission both at the time of the application and the time of payment by the Airport under the NIPS.
- (b) Development will still be eligible if the relevant planning permission is varied, modified or replaced after 8 July 2009 in a manner which results in planning permission for substantially the same development in all material respects. In addition, if a development is being undertaken in phases, eligibility will be looked at on a phase by phase basis.
- (c) Similarly, eligibility of the development will not be affected if after 8 July 2009:
- the relevant planning permission is extended by virtue of the substitution of a new time limit for commencement of development or
 - development has begun under the relevant planning permission and due to the proximity of the expiry date for submission of reserved matters for approval, a new planning permission is granted for substantially the same development in all material respects.

3.4 *Benefits of the NIPS*

- (a) The Airport will pay to Eligible Persons the costs attributable to the additional noise insulation measures at residential dwellings or Public Buildings forming part of the Eligible Development on Eligible Land, which arise from the need for increased insulation against aircraft noise as a consequence of the permitted increase in aircraft movements. This payment will be calculated as set out below.
- (b) Payment under the NIPS will not be made more than once in respect of the same part of an Eligible Development.

3.5 *Calculation of Payment under the NIPS*

- (a) The Airport will pay the difference between (a) the estimated reasonable cost (as at the date of the application by the Eligible Person) of supplying and fitting noise insulation to the standards specified below at residential dwellings and Public Buildings proposed on the Eligible Land within the Eligible Development and (b) the reasonable cost of supplying and fitting noise insulation at such dwellings and buildings to the level required by Building Control (disregarding any effects on

those requirements of the Airport's Planning Permission), the conditions attached to the relevant planning permission or any relevant planning obligations¹.

(b) The following standards are to be achieved under the NIPS (assuming that the external noise levels represent those that would result from the relevant Full Use Contour extending over the dwellings or Public Buildings forming part of the Eligible Development):

- for residential dwellings within the Full Use 57dB Contour the installation of noise insulation should produce an average sound reduction of not less than 25 dB averaged over 100 to 3150 Hz in accordance with the procedure of British Standard Publication BS EN ISO 140: Part 5;
- for Public Buildings within the Full Use 57dB Contour the installation of noise insulation should achieve an internal noise level acceptable to the Council (whose approval of such internal noise level will be sought) having regard to guidance on internal noise levels in BS 8233:1999 "Sound insulation and noise reduction for Buildings – Code of Practice" or Building Bulletin 93 "Acoustic Design of Schools";
- for residential dwellings within the Full Use 66dB Contour the installation of noise insulation should achieve an equivalent mean sound reduction index (100 to 3150 Hz) to a secondary glazing system comprising 4mm float glass with a minimum air gap between primary and secondary panes of 100mm or a high acoustic performance double glazed unit comprising 10mm glass/12mm cavity/6.8mm acoustic laminated glass, whichever is the lesser;
- for Public Buildings within the Full Use 66dB Contour the installation of noise insulation should achieve an internal noise level acceptable to the Council (whose approval of such internal noise level will be sought) having regard to guidance on internal noise levels in BS 8233:1999 "Sound insulation and noise reduction for Buildings – Code of Practice" or Building Bulletin 93 "Acoustic Design of Schools".

(c) The amount of the payment will be dependent upon the number of residential dwellings and Public Buildings on Eligible Land and forming part of an Eligible Development which are affected. The Eligible Person's estimate of the relevant noise insulation costs will be reviewed by the Airport's noise consultants who will produce their own estimate. Those costs will then be agreed between the Airport and Eligible Persons wherever possible but in the absence of agreement the costs (including the extent of the increased noise insulation required and its specification), will be determined in accordance with the dispute resolution process described below.

3.6 *Timing of payment under the NIPS*

(a) The timing of payments under the NIPS will be agreed wherever possible by reference to the proposed construction programme or phasing of the Eligible Development. For the first phase of Eligible Development payment will be made within 60 days of receipt of the architect's first Interim Certificate confirming that the construction of buildings in that phase has commenced. For each subsequent phase, unless otherwise agreed, payment will be made within 60 days of receipt by the Airport of the architect's certificate confirming practical completion of the immediately preceding phase including completion of the relevant noise insulation measures.

(b) Any dispute regarding timing of payments would be determined in accordance with the dispute resolution process (below). However, the principle of payment by instalments linked to progress in construction and installation of noise mitigation measures cannot be questioned. The Airport will pay interest at the Bank of England base rate on any sum which is not paid on the due date for payment.

¹ The definition of Eligible Development contemplates that the relevant planning permission could be a varied modified or replacement planning permission granted after 8 July 2009 for substantially the same development as a planning permission granted before 9 July 2009. Where this is the case if the two permissions are compared and there is a more onerous requirement for noise insulation in a planning condition or a planning obligation associated with the post-8 July 2009 permission and the reason for that more onerous requirement is the increase in aircraft movements allowed by the Planning Permission for the Airport then it will be disregarded.

3.7 *Procedure under the NIPS*

- (a) An application under the NIPS must be made by the delivery to the Legal Affairs Manager of London City Airport Limited at City Aviation House, Royal Docks, London E16 9PX (or email: notices@lcy.co.uk) of a written request for assistance under the NIPS, which is accompanied by the following minimum information (which can be provided in electronic form):
- Name of the applicant
 - Nature of the interest held by the applicant
 - Address of the site in which the interest is held
 - A plan showing the extent of the interest in the relevant site
 - A copy of the planning permission and any related S106 agreement for the Eligible Development, together with copies of all drawings approved by the local planning authority and any noise impact assessment or sound insulation assessment (whether or not undertaken as part of an environmental statement), which formed part of the relevant planning application.
 - A copy of any sound insulation scheme or design detail which has been developed as a consequence of the planning permission or any related S106 agreement in order to mitigate environmental noise.
 - Confirmation of the stage which the Eligible Development has reached, together with any draft or adopted construction programme for the Eligible Development.
 - Plans passed for the purposes of Building Control which show the insulating properties of the proposed building(s).
 - The applicant's estimate of the reasonable incremental costs of supplying and fitting increased noise insulation which will be payable under the NIPS (together with any supporting documents).
- (b) An application in respect of any phase of Eligible Development must be made before construction of that phase begins unless otherwise agreed by the Airport.
- (c) On receipt of the application the Airport will adhere to the following procedures and timescales unless it is prevented from doing so by matters outside its control:
- Within one month of receipt of the application the Airport will notify the applicant whether or not the Airport considers that the applicant is an Eligible Person under the NIPS and if so whether there is any further information that the Airport reasonably requires.
 - If there is a dispute regarding eligibility this will be resolved in accordance with the dispute resolution process indicated below and the determination of eligibility through that dispute resolution process will prevail.
 - If the applicant is an Eligible Person, the Airport and the Airport's noise consultants will meet with the Eligible Person and its consultants within six weeks of either notification by the Airport that the applicant is an Eligible Person or receipt from the applicant of any further information reasonably requested at the time of notification (whichever is later). The purpose of that meeting will be to discuss and understand the Eligible Development, its design and specification and the timing of its construction.
 - Within six weeks of the meeting between the Eligible Person and the Airport, the Airport and its noise consultants will review the application and all supporting information and will notify the Eligible Person in writing of the amount of the payment that the Airport

proposes to make under the NIPS and how it is calculated, together with proposals for the timing of the payments.

- Within six weeks of the Airport's notification of payment, the Airport and its noise consultants will meet with the Eligible Person and its consultants in order to discuss the amount of payment, agree the amount to be paid and agree on the timing of the payments. Any disputes are to be dealt with in accordance with the process outlined below.
- Within four weeks of agreement or determination concerning the aggregate payment and the timing of individual payments under the NIPS in respect of an Eligible Development the Airport will make a final written offer to the Eligible Person based on the agreed or determined payments and their timing and subject also to the following conditions:
 - (i) The offer will be open for acceptance until the expiry of two months following the date of its receipt by the Eligible Person; and
 - (ii) Any payments specified in the offer will only be made to Eligible Person(s) (in respect of the Eligible Development which is the subject of the offer); and
 - (iii) Within two months of practical completion of each phase of the Eligible Development the Applicant must provide evidence that the noise insulation measures have been installed in that phase and achieve the required performance by the provision of independently certified evidence that all incorporated components comply with the specified performance requirements as set out in the Architect's specification, the Employer's Requirements and within the NIPS.

3.8 *Publicity*

Once the NIPS has been approved by the Council, it will become operational within three months. Within that three month period, the Airport will notify potentially Eligible Persons insofar as it is able to identify them through Land Registry searches. Otherwise, the existence of the NIPS (once adopted) will be publicised by its inclusion in the Annual Performance Report which the Airport is obliged to publish each year under the Section 106 Agreement, by publication on the Airport's website and through reporting to the Consultative Committee.

3.9 *Scheme Close*

Applications may not be made and will not be accepted by the Airport after the tenth anniversary of the date on which the NIPS becomes operational.

3.10 *Determination of disputes*

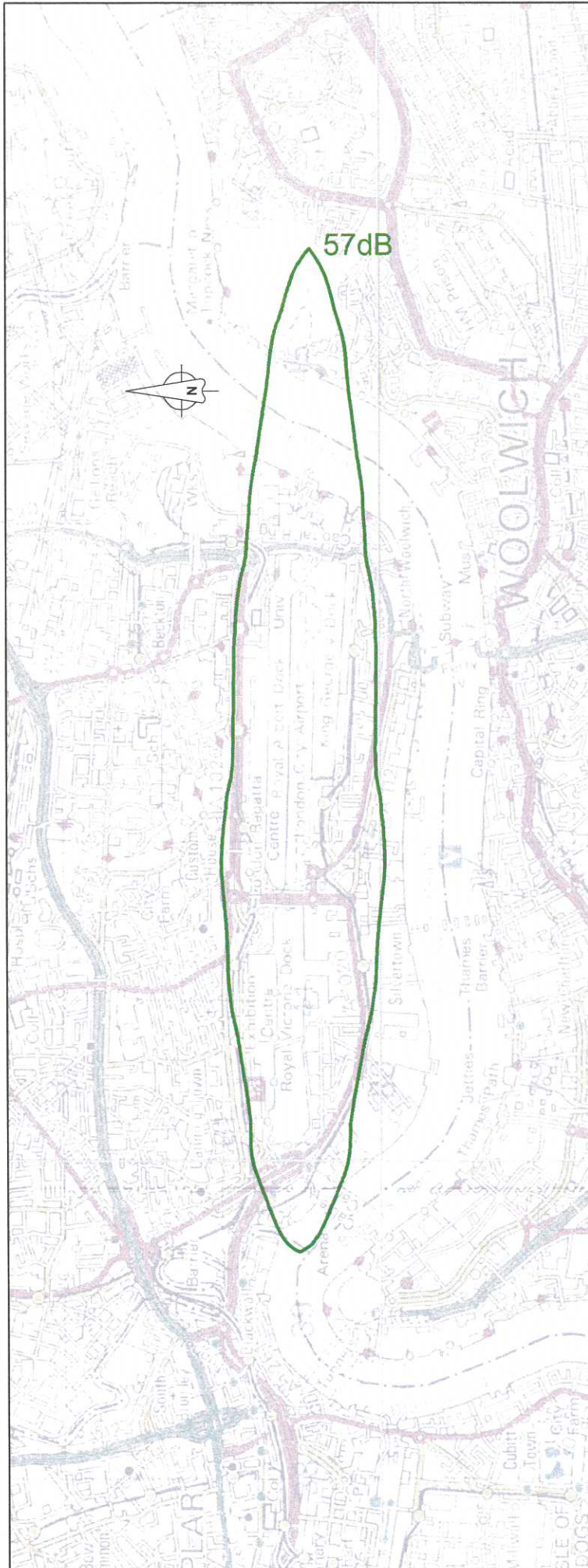
- (a) In the event of a dispute under the NIPS the matter in dispute will on the application of either the Airport or the applicant be referred to a person acting as independent expert (the "Expert") being a person with not less than 10 years' recent and relevant experience of the matter in dispute whose identity will be agreed between the Airport and the claimant or in the absence of agreement appointed by or on behalf of the President for the time being of the Royal Institution of Chartered Surveyors on the application of either party.
- (b) The resolution of the dispute will be on the following terms:
 - (i) the determination will be final and binding on the parties except where the Expert has made a manifest error;

- (ii) the parties will be entitled to make representations and counter-representations in accordance with such timetable as the Expert directs; and
- (iii) the Expert's costs will be borne in such proportions as he or she may direct failing which each party will bear its own costs of the reference and determination and one half each of the Expert's costs

November 2013

GLOSSARY

1998 57 dB Contour	the 57 dB Contour included as part of the application for the 1998 Permission shown on the plan attached to this document marked "Plan 1" and based on full use of the 1998 Permission
1998 Permission	the planning permission granted on 21 July 1998 under reference P/97/0826
57 dB Contour	the 57 dB L_{Aeq} , 16h Average Mode summer day contour
66 dB Contour	the 66 dB L_{Aeq} , 16h Average Mode summer day contour
Annual Performance Report	an annual report to be submitted to the Council by 1 July in each calendar year which will (to the extent required) report on the compliance with the terms of the Section 106 Agreement in the preceding calendar year
Full Use 57 dB Contour	the 57 dB Contour included with the application for the Airport's Planning Permission which is based on the full use of the Airport's Planning Permission and is shown on the plan attached to this document marked ("Plan 2")
Full Use 66 dB Contour	the 66 dB Contour included with the application for the Airport's Planning Permission which is based on full use of the Airport's Planning Permission shown on the plan attached to this document marked ("Plan 2")
Full Use Contours	the Full Use 57 dB Contour and the Full Use 66 dB Contour
Public Buildings	the following types of public buildings in noise sensitive community use and any other types of public building as agreed between the Airport and the Council: schools (including but not limited to Britannia Village School) colleges doctors' surgeries health centres hospitals nursing homes (including old people's homes) community centres (but not those used only as social clubs) meeting halls village halls churches and other places of religious worship libraries children's and other day centres crèches and nurseries and including any parts of buildings authorised and used for such purposes



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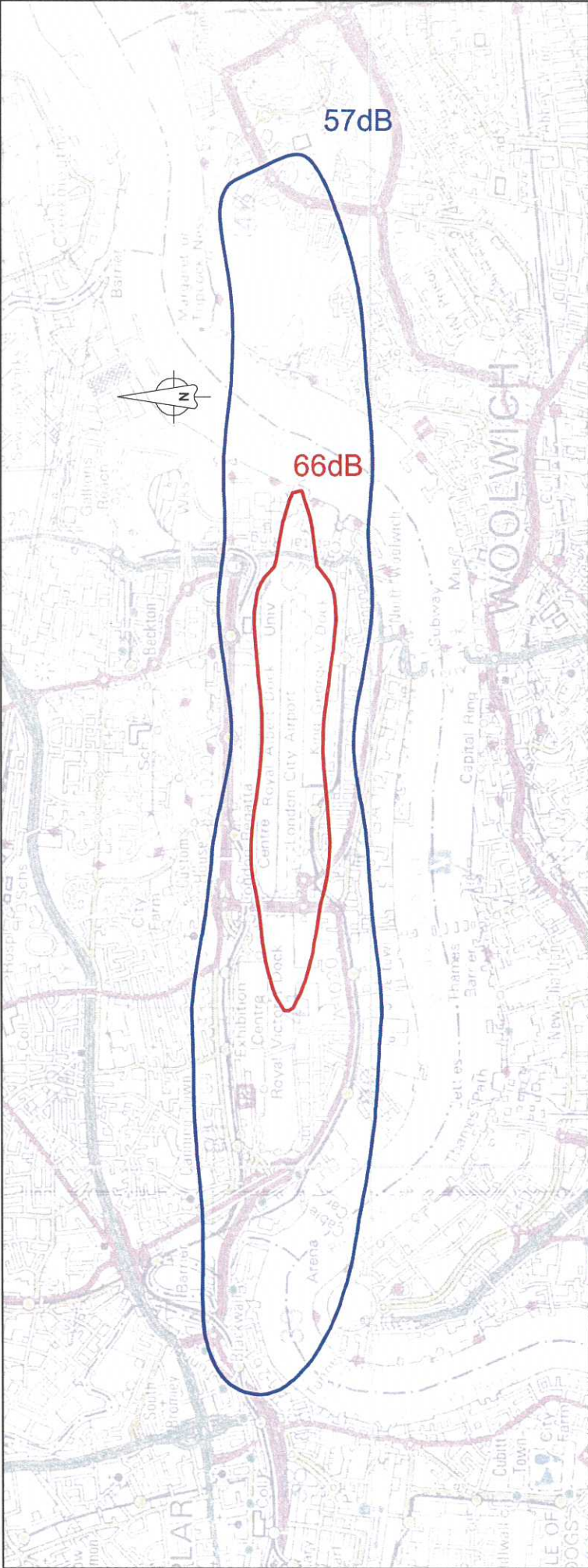
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Project
LONDON CITY AIRPORT

Title

1998 57 dB L_{Aeq,16h}
Noise Contour

Drawn	Checked	Approved	Job no	Pha
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Date	Scale	Status	Plan	Rev
NOV-13	1:35,000		1	



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Project

LONDON CITY AIRPORT

Title

Full Use 57 & 66 dBL Aeq,16h
Noise Contours

Drawn DT	Checked PH	Approved PH	Job no A1125	Pha 48
Date NOV-13	Scale 1:35,000	Status	Plan 2	Rev