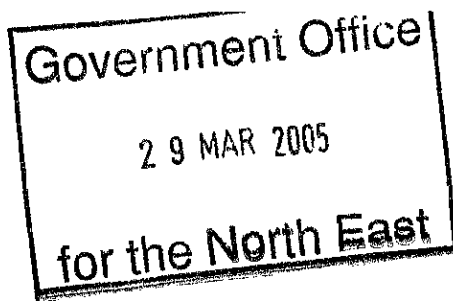


THAMES GATEWAY BRIDGE
PUBLIC INQUIRY

STATEMENT OF CASE

LONDON CITY AIRPORT (S J BERWIN)



Date 24 March 2005
Our ref 126/L3146.93
Your ref APP/G5750/V/05/1174146 &
APP/E5330/V/05/1174147 & DN5002/55/12M/1, 55/7/1
& 60/1/03
Partner Miss Pat Thomas
Direct tel 020 7533 2450
Email pat.thomas@sjberwin.com

Dear Madam

Town and Country Planning Act 1990 - Section 77

Town and Country Planning (Inquiries Procedure) (England) Rules 2000 ("the 2000 Rules")

Applications by Transport for London for Planning Permission for a proposed Thames Gateway Bridge linking the A13/A406 in Beckton to the A2016 Eastern Way, Thamesmead

The Compulsory Purchase by Non Ministerial Acquiring Authorities (Inquiries Procedure) Rules 1990 - SI 1990 NO 512 ("the 1990 Rules")

The Highways (Inquiries Procedure) Rules 1994 - SI 1994 NO 3263 ("the 1994 Rules")

The A2012 GLA Road (Thames Gateway Bridge) -

- (i) Special Roads and Bridge Scheme 2004**
- (ii) (Side Roads) Order 2004**
- (iii) Compulsory Purchase Order 2004**
- (iv) Toll Order 2004**

We refer to the above applications, and to your letter of 25 February 2005 informing us that the First Secretary of State has called in the planning applications for his own determination.

Accordingly, we attach on behalf of our clients, London City Airport Limited, their Statement of Case pursuant to the Town and Country Planning (Inquiries Procedure) (England) Rules 2000 ("Rule 6 Statement").

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SJ Berwin is regulated by the Law Society. A list of names of partners and their professional qualifications is open to inspection at the above office. The partners are either solicitors or registered foreign lawyers.

24 March 2005



We also confirm that a copy has been sent to each of the statutory parties that are listed in the annex to your letter of 25 February 2005, together with the Planning Inspectorate (Sian Evans).

Yours faithfully

SJ Berwin

Enc:

cc Statutory Consultees as per letter of 25 February 2005
Ms Sian Evans, Planning Inspectorate (by e-mail and post)

Ms Linda Smart
Department for Transport
Citygate
Gallowgate
Newcastle upon Tyne
NE1 4WH

LONDON CITY AIRPORT

SECTION 77 TOWN AND COUNTRY PLANNING ACT 1990

TOWN AND COUNTRY PLANNING (INQUIRIES PROCEDURE) (ENGLAND) RULES 2000

PROPOSED THAMES GATEWAY BRIDGE BY TRANSPORT FOR LONDON LINKING THE A13/A406 IN BECKTON TO THE A2016 EASTERN WAY IN THAMESMEAD (“the Applications”)

INQUIRY REFERENCES: APP/G5750/V/05/1174146 AND APP/E5330/V/05/1174147

STATEMENT OF CASE

1 Introduction

1.1 This Statement of Case is made on behalf of London City Airport Limited (“LCY”) and is submitted pursuant to Rule 6 of the Town and Country Planning (Inquiries Procedure) (England) Rules 2000 and as directed in the letter from the Department for Transport dated 25 February 2005.

1.2 LCY is a relevant airport operator within the meaning of Part V of the Airports Act 1986 and is also subject to regulation by the Civil Aviation Authority, in particular, in relation to aerodrome licensing under Article 103 of the Air Navigation Order 2000, where the Civil Aviation Authority must be satisfied inter alia that: “the aerodrome is safe for use by aircraft, having regard in particular to the physical characteristics of the aerodrome and of its surroundings.”

1.3 LCY is the consultee for London City Airport under the Town and Country Planning (Safeguarded Aerodromes, Technical Sites and Military Explosives Storage Areas) Direction 2002 (included at Annex I of Circular 01/2003) (“the 2002 Direction”). Only certain civil aerodromes are officially safeguarded. They are selected on the basis of their importance to the national air transport system and the need to ensure that their operation and development are not inhibited by:

- buildings, structures or works which infringe protected surfaces, obscure runway approach lights or have the potential to impair the performance of aerodrome navigation aids, radio aids or telecommunication systems;
- lighting which has the potential to distract pilots;
- developments which have the potential to increase the number of birds or the bird hazard risk

1.4 London City Airport is an officially safeguarded civil aerodrome. The 2002 Direction provides that before granting permission for the development of land in the vicinity of an aerodrome, a local planning authority is required to the extent specified on the relevant safeguarding map to consult the safeguarding consultee. The local planning authority may not then grant planning permission for the development before the expiry of a period of 21 days beginning with the date advised in writing by the consultee as the date of receipt of the relevant information. If a local planning authority proposes to grant permission for the development or to grant permission subject to conditions, in a manner that is contrary to the advice of the consultee, they must notify both the Civil Aviation Authority and the consultee. The local planning authority may not then grant planning permission before the expiry of a period of 28 days from the date advised in writing by the consultee as the date of receipt of the relevant information. In practice this gives the CAA and the consultee the opportunity to ask the Secretary of State to call in such proposals for his own determination.

2 Safeguarding

2.1 Annex 2 of Circular 01/2003 provides background advice on safeguarding and the breadth of issues with which the process is concerned.

2.2 Paragraph 6 provides that:

“.....the consultation which the safeguarding process involves does not in practice relate solely to the height of buildings, structures, erections or works. Aerodrome operators employ a variety of navigational aids, radio aids and telecommunication systems in order to facilitate air traffic control and aircraft movements. In addition, at night or in low visibility conditions such as fog, pilots rely on approach and runway lighting to align themselves with the runway and to touch down at the correct point. A building or structure can, because of its size, shape, location or construction materials, act as a reflector or diffractor of the radio signals on which navigational aids, radio aids and telecommunication systems depend, while almost any development in the vicinity of these aids and systems has the potential to interfere with them. “

2.3 Paragraph 7 adds:

“Birdstrikes are one of the major controllable hazards to aviation. Common birds have caused catastrophic accidents to all types of aircraft. Most birdstrikes occur on or near aerodromes but, because birds are very mobile, features far beyond an aerodrome boundary may increase the hazard.”

2.4 Paragraph 11 of Annex 2 deals specifically with road and rail proposals in the vicinity of safeguarded aerodrome:

“Vehicles are potential obstructions to aircraft. The internationally agreed safety criteria recognise this by considering a road to be a mobile obstruction of 4.8 metres and a railway to be a mobile obstruction of 5.4 metres. The Civil Aviation Authority has adopted these provisions as part of its safeguarding practice. If a road or a railway forms part of a planning application, the local planning authority should regard it as development of a height of 4.8 or 5.4 metres, as the case may be, and consult in accordance with the colour coding on the safeguarding map. Lighting columns and other street furniture, and signal gantries and power lines, should also be the subject of consultation appropriate to their height, in accordance with the colour coding on the safeguarding maps....”

2.5 Paragraph 12 continues:

“Local planning authorities should pay particular attention to the intensity and alignment of road lighting, which is a matter of concern over much more than the areas close to the ends of a runway. The intensity of lighting can distract pilots by causing glare in the direction of an approaching aircraft while, when viewed from the air, a road lighting scheme which makes a pattern similar to an approach or runway lighting pattern can confuse pilots who use those lights when landing at night or in foggy conditions. British Standard 5489, Part 8, states that the area within which a road lighting scheme may affect the safe use of an aerodrome is 4.8 kilometres beyond the aerodrome boundary. Local planning authorities should take account of the possibility that road lighting can be a safeguarding issue within this area....”

2.6 Circular 01/2003 recognises that an assessment of the safeguarding implications of a proposal may be particularly difficult where there are insufficient details. Paragraph 20 of Annex 2 advises as follows:

“Consultees may face particular difficulty in providing advice in respect of outline planning applications, because they are likely to need to examine specific proposals on matters such as siting, design (including height) and external appearance before they can advise on whether the proposed development might compromise the safe operation of the aerodrome or interfere with the navigation aid. In considering outline planning applications local planning authorities should therefore take account of the importance to consultees of what could otherwise be reserved matters.....”

2.7 Paragraph 21 continues:

“.....operators of safeguarded aerodromes.....are likely to need to examine specific proposals in respect of matters such as siting, design (including height) and external appearance when local planning authorities consider applications for approval of reserved matters.”

3 The Applications

- 3.1 The Applications involves the construction of a new bridge, comprising a four-lane dual carriageway carrying traffic between the A13/A406 at Beckton and the A 2016 in Thamesmead, with two segregated lanes for public transport and a segregated facility for pedestrians/cyclists. The site is located within the London Borough of Greenwich and within the London Borough of Newham and therefore the proposed development falls to be considered by both local planning authorities.
- 3.2 The Applications submitted by Transport for London ("the Applicant") are in hybrid form with certain details reserved for subsequent approval by the local planning authorities including the design of the bridge and approaches
- 3.3 LCY responded to the formal consultation on the Applications to the London Borough of Newham and to the London Borough of Greenwich on 8 November 2004. Subsequently the local planning authorities reported to their respective Committees with recommendations to approve. The final forms of their Committee reports included the conditions which LCY had discussed with each local planning authority and which LCY considered would provide adequate controls over the proposed development in terms of the safeguarding of operations at London City Airport.

4 LCY's Position

- 4.1 LCY has no objection to the principle of the Thames Gateway Bridge but, because of the hybrid form of the applications, LCY does not currently have sufficient detail of the height and design of the bridge, plant and associated structures to confirm that the development will be acceptable in terms of its impact on aircraft operations.
- 4.2 LCY's submits that any hybrid planning permission must contain conditions that provide sufficient controls over all areas of potential concern, with provision for LCY to be consulted before the approval of details, and accordingly reserves the right to raise objection at that time.
- 4.3 LCY's concerns are as follows:
- 4.3.1 **Height of the Bridge, associated street furniture, plant etc.**
- (a) It appears from the indicative plans supporting the Applications that the bridge structure is sited amid a variety of complex safeguarded surfaces. At this stage LCY is unable to confirm that the proposals are acceptable without more detailed information, in order that it may determine the actual physical implications. Even if such details are made available further investigations would need to be undertaken with National Air Traffic Services (NATS) relating to the potential technical impact of the bridge, and the Civil Aviation

Authority Directorate of Airspace Policy (DAP) with regard to the potential effects on Instrument Flight Procedures.

- (b) LCY also has reservations about the construction methods for the Thames Gateway Bridge and in particular the potential for tower cranes and other mobile or temporary equipment to infringe unacceptably the safeguarded surfaces.
- (c) As a consequence, it is vital that any planning permissions include sufficient controls over the height of the bridge, plant and other associated structures and that the subsequent approval of details respects the controls established in the conditions on the planning permissions, including the necessary referral of such reserved matters applications to London City Airport for comment.

4.3.2 **Technical Safeguarding**

It is not possible at this stage, without further details, to assess the impact on communication and navigational aid equipment at the Airport. By way of example, further details of the bridge structures, in particular, must not be approved unless it has been demonstrated that there is no adverse impact on technical safeguarding. As a consequence, any planning permissions need to impose adequate controls by condition.

4.3.3 **Landscaping**

The landscaping that will form part of the development could have an adverse effect on the safety of operations at the Airport by encouraging bird roosting and thereby presenting a bird strike threat to aircraft operating at the Airport. If planning permission is granted the choice and height of species of planting should be controlled by condition.

4.3.4 **Lighting**

Any external lighting on and around the Bridge and its approaches could cause confusion/distraction to pilots and thereby impair the safety of aircraft operations at the Airport. Therefore, if planning permission is granted, the details of lighting should be strictly controlled by condition.

5 **LCY'S Preferred form of Conditions**

- 5.1 LCY proposes that the following conditions should be included in any planning permission so that the safety concerns that have been identified in Section 4 can be addressed. These conditions were accepted by the two local planning authorities, and set out in their respective Reports to Committee recommending approval.

Height

- (a) *Notwithstanding the drawings and other material submitted with the application, the overall height of the development or any other structures appertaining thereto (including plant, aerals and antennae) shall not infringe the obstacle limitation surfaces at London City Airport.*

Reason: In the interests of safety and operation of London City Airport

Construction Methodology

- (b) *Prior to commencement of development details of the method of construction, including details of the use, location and height of cranes and other plant and equipment or temporary structures, shall be submitted to and approved in writing by the local planning authority in consultation with the operator of London City Airport and the CAA.*

Reason: In interests of safety and operation of London City Airport

Technical Assessment

- (c) *Notwithstanding the drawings and other material submitted with the application, the details to be submitted for approval of the siting, design and external appearance of the building(s) and structures (including plant, lighting columns, aerals and antennae), hereby permitted, including choice of materials and any temporary structures, as required by condition shall be accompanied by a technical assessment of any potential effects of the development upon radio and/or electromagnetic signals, navigational and communication aids at London City Airport.*

This shall include assessment of any potential cumulative effects of the development and the development shall not be commenced until the subsequent approval in writing of such assessment by the Local Planning Authority in consultation with the operator of London City Airport and the Civil Aviation Authority.

Reason: In the interests of safety and operation of London City Airport

Landscaping

- (d) *Not to carry out any landscaping scheme (including the introduction of any water feature) on the site without the further prior approval in writing of such scheme by the Local Planning Authority in consultation with the operator of London City Airport and the CAA. Any trees, plants, shrubs or other vegetation to be planted or grown on the site shall so far as practicable be selected from species and planted and grown in such a manner as to minimise the attraction thereof to birds.*

Reason: In the interests of safety and operation of London City Airport

Lighting

- (e) *Not to place or cause to be placed on the site any external lighting or flood lighting including any external illuminated signage without the prior written approval of the Local Planning Authority in consultation with the operator of London City Airport and the CAA in order to ensure that the direction and/or density of such lighting does not distract any aircraft operating at London City Airport or has an adverse effect on any navigational equipment at the Airport.*

Reason: In the interests of safety and operation of London City Airport

6 Conclusion

6.1 LCY supports the principle of the Thames Gateway Bridge. However, LCY must ensure that there is no significant adverse impact upon the operations of London City Airport. Due to the absence of detail at this stage the precise effect on Airport operations is not certain and therefore the approval of details needs to be strictly controlled through conditions on any planning permissions. Suggested conditions are set out in Section 5. Failure to protect the continuing operational efficiency of the Airport is likely to have serious economic and social consequences for both the local area and the wider commercial community in the City, Central and East London.

6.2 London City Airport reserves the right subsequently to alter, add to or subtract from this Statement of Case

7 Documents to which reference may be made in the course of evidence to the inquiry:

- Airports Act 1986;
- Air Navigation Order 2000;
- CAP168: Licensing of Aerodromes;
- Circular 01/2003: Town and Country Planning (Safeguarded Aerodromes, Technical Sites and Military Explosives Storage Areas) Direction 2002;
- Safeguarding Map for London City Airport issued by the Civil Aviation Authority (12 October 2004);
- Formal letters of response to Consultation of the planning applications to London Borough of Newham and London Borough of Greenwich dated 8 November 2004;
- CAA document “Safeguarded and Obstacle Limitation Surfaces – London City Airport” dated August 2004.