



**Planning Services**  
Merrion House  
110 Merrion Centre  
Leeds LS2 8BB

# DELEGATION REPORT

REPORT OF THE CHIEF PLANNING OFFICER

**WARD:** Otley & Yeadon

**Application:** 23/07491/CLE

**Address:** Leeds And Bradford Airport  
Victoria Avenue  
Yeadon  
Leeds  
LS19 7TU

**Applicant:** Leeds Bradford Airport Limited

**Proposal:** Application 3 - Regardless of the cap on movements in condition 7, it is lawful for aircraft to take off and land at Leeds Bradford Airport during the hours of 2300-0700 where they fall within the definition of 'exempt aircraft' in NOTAM s45/1993 i.e (a) those aircraft with a maximum certified weight not exceeding 11,600 kg and (b) those propeller aircraft which on the basis of their noise data are classed as less than 87 EPNdB and which are indicated as exempt in part 2 of the schedule of NOTAM S45/1993 notice

## **Application advertised by means of:**

Site Notice  
Advert Posted  
Neighbour Notification letters posted  
Publicity Expires on

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## **1. Introduction**

This report relates to an Application submitted by Leeds Bradford Airport dated 14<sup>th</sup> December 2023, seeking a Certificate of Existing Lawful Development for the development

described in detail at Section 6 of this report. The Application relates to Planning Permission 07/02208/FU (the Permission).

## **2. Legal Framework**

- 2.1 A Certificate of Existing Lawful Development is a legal document issued pursuant to s.191 of the Town and Country Planning Act 1990 (the Act), certifying that the operations or use specified in the Certificate are lawful. If granted by the Local Planning Authority, the Certificate indicates that enforcement action cannot be carried out in respect of the operations or use referred to in the Certificate.
- 2.2 The legal and policy framework for determining the application is set out under section 191 of the Act, the Town and Country Planning (Development Management Procedure) Order 2015 (the Order), National Planning Practice Guidance (NPPG) and relevant Case Law.
- 2.3 Section 191 of the Act provides that any person may apply to the Local Planning Authority (LPA) for a certificate of lawfulness (Certificate) to ascertain whether:
- any existing use of buildings or other land is lawful;
  - any operations which have been carried out in, on, over or under land are lawful;
  - any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful.
- 2.4 Section 171B of the Act specifies time limits within which local planning authorities can take planning enforcement action against breaches of planning control.

In summary the time limits are:

- in respect of a building, engineering, mining or other operations in, on, over or under land, carried out without planning permission - this development becomes immune from enforcement action four years beginning with the date on which the operations are substantially completed
- in respect of a change of use of a building, or part of a building, to use as a single dwelling house without planning permission – this development becomes immune from enforcement action after the end of four years beginning with the date of the breach
- for any other breaches of planning control, no enforcement action may be taken after the end of ten years beginning with the date of the breach.

Once these time limits have passed, the development becomes immune from enforcement action and can, upon the receipt of a relevant application, be certified as lawful pursuant to s.191 of the Act.

- 2.5 If, on an application under section 191, the LPA are provided with information satisfying it that the alleged existing operations or use described in the application (or that description as modified by the LPA) are lawful at the time of the application, they shall issue a certificate to

that effect. S. 191(4). In any other case the LPA shall refuse the application. Once a certificate has been granted following an application under section 191, it means that any existing use or development in accordance with it must be presumed as lawful: s. 191(6).

- 2.6 The NPPG (Paragraph: 007 Reference ID: 17c-007-20140306), provides that the applicant is responsible for providing sufficient information to support an application. An LPA is entitled to canvass evidence if it so wishes before determining an application. If a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counter-evidence. No such call for evidence has been necessary in respect of this application.
- 2.7 The planning merits of the use, operation or activity referred to in the application are not relevant. The issue of a Certificate depends entirely on factual evidence submitted by the applicant about the planning status of the building or other land or use and the interpretation of any relevant planning law or judicial authority. The responsibility is on the applicant to provide evidence, which, on the balance of probabilities, supports the application.
- 2.8 Therefore in determining this type of application it is fundamental to note that the issue is not whether the LPA would grant planning permission for the existing development. Rather, it is for the Local Planning Authority to decide whether or not the operations or use described in the application constitute a lawful operation or use of the land for the purposes of section 191 of the Act. Consequently, this type of application must not be and is not considered on its essential planning merits.
- 2.9 In the case of applications for existing development, an applicant needs to describe the proposal with sufficient clarity and precision to enable a LPA to understand exactly what is involved. The LPA are satisfied that the description of development in this Application is sufficient.

### 3. **Site and Surroundings**

- 3.1 LBA is located to the north west of Leeds beyond the urban area of Yeadon. It consists of one runway with a crescent shaped terminal building which has been developed piecemeal since 1968. It has an airside apron for plane parking and movements on one side with short and long term car parking on the other side.
- 3.2 The whole of the airport is washed over by Green Belt but is also located within the airports operational land boundary (AOLB)
- 3.3 Permission has been granted for an extension to the terminal building pursuant to a separate permission ref 18/06788/FU.

### 4. **Relevant Planning History**

*Current outstanding Certificate applications*

23/07489/CLE – Application 1 - Confirmation of immunity against enforcement of condition 4 of the permission in respect of the departure of aircraft with a quota count of 1 during the night-time period, based on ten years of continuous breach. Pending consideration

23/07490/CLE – Application 2 - Confirmation of immunity against enforcement of conditions 6(a), 6(b) and 6(c) of the permission in respect of the prohibition of night time movements of aircraft with quota count of 0.25 based on ten years of continuous breach. Pending consideration

23/07493/CLE – Application 4 - It is lawful for any aircraft, regardless of quota count and regardless of the cap on movements in condition 7 to land at the airport in the following circumstances: (a) delayed landings up to 0100 hours by aircraft scheduled to land at Leeds Bradford Airport between 0700 hours and 23 hours; and (b) any emergency flights, i.e a flight where there is an immediate danger to life or health, whether human or animal are permitted. Pending consideration

#### *Withdrawn Certificate applications*

23/05440/CLE– Certificate of Existing Lawful Development to confirm immunity against enforcement of the departure of aircraft with a quota count of 1 pursuant to Condition 4 of permission 07/02208/FU (Application 1). Withdrawn 14/12/23

23/05441/CLE – Certificate of Existing Lawful Development to confirm immunity against enforcement of the departure of aircraft with a quota count of 1 pursuant to Condition 4 of permission 07/02208/FU (Application 1). Withdrawn 7/11/23

23/05442/CLE - Certificate of Existing Lawful Development to confirm immunity against enforcement of any prohibition of movements of aircraft with a quota count of 0.25 during the night-time period (Application 3). Withdrawn 14/12/23

23/05443/CLE – Certificate of Existing Lawful Development to confirm that 'exempt' is defined in Condition 6(e) of permission 07/02208/FU, by reference to the provisions of UK NOTAM S45/1993 (without updates) (Application 4). Withdrawn 14/12/23

23/05444/CLE - Certificate of Existing Lawful Development to confirm that condition 9 of permission 07/02208/FU allows delayed and emergency flights to land during the night time period regardless of their quota count, and such flights do not count against the cap on night time movements in condition 7. (Application 5). Withdrawn 14/12/23

#### *Planning permissions*

18/06788/FU – two/three storey terminal extension approved 29/1/2019

07/02208/FU – variation of condition 15 of application no 29/114/93/FU – removal of part highway improvement scheme (part c and e) approved 29/8/2007

29/0114/93/fu - removal of conditions nos 5, 7 and 15 of application no 86/29/00019 (hours of use) approved 19/1/1994

## 5. **Statutory Consultation:**

- 5.1 Given the nature of the Application there is no statutory requirement to consult with any third parties or publish any information other than to notify that an application has been received.
- 5.2 However, due to the significant public interest in the operations of Leeds Bradford Airport, full details of this Application, including the Application Statement, were published on the Council's Public Access and are publicly available.

## 6 **Proposal:**

- 6.1 The application reference 23/07491/CLE, was received and validated on 14<sup>th</sup> December 2023.
- 6.2 The Application relates to Planning Permission 07/02208/FU.
- 6.3 The description of development within the Application is

*Regardless of the cap on movements in condition 7, it is lawful for aircraft to take off and land at Leeds Bradford Airport during the hours of 2300-0700 where they fall within the definition of 'exempt aircraft' in NOTAM s45/1993 i.e (a) those aircraft with a maximum certified weight not exceeding 11,600 kg and (b) those propeller aircraft which on the basis of their noise data are classed as less than 87 EPNdB and which are indicated as exempt in part 2 of the schedule of NOTAM S45/1993 notice*

- 6.4 In accordance with Article 39(1) of the Order, an extension period in which the LPA must issue written notice of its decision was agreed between the applicant and the LPA.

## 7. **The Applicant's case**

- 7.1 Broadly and for the reasons set out in the Application Statement (section 4 pg 17) it is the applicant's claim that by virtue of the specific wording within condition 6(e) not expressly referencing "*and any succeeding regulations or amendments/ additions/deletions*" after the words "*defined by UK NOTAM S45/1993*", exempt aircraft falling within sub section (e) should be defined with reference to the S45/1993 UK NOTAM and not succeeding iterations of it.
- 7.2 Therefore this means that the following aircraft, defined as exempt by S45/1993 NOTAM, may fly during the night time period without counting towards the maximum number of aircraft movements specified by condition 7 of the planning permission:

- (a) those jet aircraft with a maximum certified weight not exceeding 11,600kg; and
- (b) those propeller aircraft which on the basis of their noise data are classed at less than 98EPNdB and which are indicated as exempt in Part 2 of the Schedule to the [S45/1993] Notice.

## 8. **APPRAISAL**

## A – Legal Principles

- 8.1 In assessing the Application, officers have had regard to the legal framework and guidance set out in section 2 above, the submissions of the applicant and the correct legal interpretation of Condition 6 as a whole and 6 (e) specifically.
- 8.2 It is first necessary to determine the correct interpretation of Condition 6(e) in order to identify which iteration of the NOTAM the Application needs to be assessed against.
- 8.3 In *Trump International Golf Club Scotland Limited v Scottish Ministers* [2015] UKSC 74 (Trump) and *Lambeth LBC v Secretary of State for Communities and Local Government* [2019] UKSC 33 (Lambeth), the Supreme Court considered the principles applicable to the interpretation of planning permissions. In *Trump*, Lord Hodge said [emphasis added]:

*"34. When the court is concerned with the interpretation of words in a condition in a public document such as a section 36 consent, it asks itself what a reasonable reader would understand the words to mean when reading the condition in the context of the other conditions and of the consent as a whole. This is an objective exercise in which the court will have regard to the natural and ordinary meaning of the relevant words, the overall purpose of the consent, any other conditions which cast light on the purpose of the relevant words, and common sense."*

- 8.4 It is possible for words or terms to be implied into a public document like a planning permission. In *Trump* Lord Hodge continued:

*32. Mr Campbell submits that the court should follow the approach which Sullivan J adopted to planning conditions in *Sevenoaks District Council v First Secretary of State* [2005] 1 P & CR 13 and hold that there is no room for implying into condition 14 a further obligation that the developer must construct the development in accordance with the design statement. In agreement with Lord Carnwath, I am not persuaded that there is a complete bar on implying terms into the conditions in planning permissions, and I do not see the case law on planning conditions under planning legislation as directly applicable to conditions under the 1989 Act because of the different wording of the 1989 Act.*

*35. Interpretation is not the same as the implication of terms. Interpretation of the words of a document is the precursor of implication. It forms the context in which the law may have to imply terms into a document, where the court concludes from its interpretation of the words used in the document that it must have been intended that the document would have a certain effect, although the words to give it that effect are absent. See the decision of the Privy Council in *Attorney General of Belize v Belize Telecom Ltd* [2009] 1 WLR 1988 per Lord Hoffmann at paras 16 to 24 as explained by this court in *Marks & Spencer plc v BNP Paribas Securities Trust Company (Jersey) Ltd* [2015] UKSC 71, per Lord Neuberger at paras 22 to 30. While the court will, understandably, exercise great restraint in implying terms into public documents which have criminal sanctions, I see no principled reason for excluding implication altogether.*

- 8.5 In Lord Carnwath's concurring judgment at para 66 he added:

*"Any such document of course must be interpreted in its particular legal and factual context. One aspect of that context is that a planning permission is a public document*

*which may be relied on by parties unrelated to those originally involved ... It must also be borne in mind that planning conditions may be used to support criminal proceedings. Those are good reasons for a relatively cautious approach, for example in the well established rules limiting the categories of documents which may be used in interpreting a planning permission ... But such considerations arise from the legal framework within which planning permissions are granted. They do not require the adoption of a completely different approach to their interpretation."*

- 8.6 The principles of interpretation stated in *Trump* and repeated in *Lambeth* have been considered by Mrs Justice Lieven in *UBB Waste Essex Ltd v Essex CC* [2019] EWHC 1924 (Admin). In the light of Lord Carnwath's warning about the dangers of setting down the principles of interpreting planning permissions, her ladyship set out, not the principles, but the relevant factors applied by her in that case (paras 52–57). These were as follows [emphasis added]:

*"52. Firstly, permissions should be interpreted as by a reasonable reader with some knowledge of planning law and the matter in question. This does not mean that they are the "informed reader" of a decision letter, but equally the reasonable reader will understand the role of the permission, conditions and any incorporated documents.*

*53. As Lord Carnwath has said the permission needs to be interpreted with common sense. Mr Sharland points out with some justification that reasonable people may differ on what amounts to common sense. In my view references to common sense are really pointing to the planning purpose of the permission or condition. If the interpretation advanced flies in the face of the purpose of the condition, and the policies underlying it, then common sense may well indicate that that interpretation is not correct. So, in *Lambeth* it was plainly contrary to that purpose for the permission not to limit the sale of food items, such an interpretation was contrary to common sense once one understood the planning background.*

*54. Secondly, it is legitimate to consider the planning "purpose" or intention of the permission, where this is reflected in the reasons for the conditions and/or the documents incorporated. The reasons for the condition should be the starting point, the policies referred to and then the documents incorporated. This is not the private intentions of the parties, as would be the case in a contractual dispute, but the planning purpose which lies behind the condition.*

*55. Thirdly, where as here, there are documents incorporated into the permission or the conditions by reference, then a holistic view has to be taken, having regard to the relevant parts of those documents. This can be a difficult exercise because where, as here, the permission incorporates the application (including the Planning Statement) and the Environmental Statement and Non-Technical Summary, there can be a very large number of documents to be considered. It may be the case that those documents are not all wholly consistent, and that there may be some ambiguity within at least parts of them. In my view the correct approach is to take an overview of the documents, to try to understand the nature of the development and the planning purpose that was sought to be achieved by the condition in question. The reasonable reader would be trying to understand the nature of the development and any conditions imposed upon it. It is not appropriate to focus on one particular sentence without seeing its context, unless that sentence is so unequivocal as give a clear-cut answer.*

*56. Fourthly, where documents are incorporated into the permission, as here, plainly regard can be had to them. Where the documents sought to be relied upon are "extrinsic", then save perhaps for exceptional circumstances, they can only be relied upon if there is ambiguity*

*in the condition. In my view, even where there is ambiguity there is a difference between documents that are in the public domain, and easily accessible such as the officer's report that led to the grant of the permission and private documents passing between the parties or their agents.*

*57. The Court should be extremely slow to consider the intention alleged to be behind the condition from documents which are not incorporated and particularly if they are not in the public domain. This is for three reasons. The determination of planning applications is a public process which is required to be transparent. Any reliance on documents passing between the developer and the LPA, even if they ultimately end up on the planning register, is contrary to that principle of transparency. Planning permissions impact on third party rights in a number of different ways. It is therefore essential that those third parties can rely on the face of the permission and the documents expressly referred to. Finally, breach of planning permission and their conditions, can lead to criminal sanctions”*

## B - UK NOTAM S45/1993

- 8.8 Under s. 78 Civil Aviation Act 1982 (the 1982 Act) the Secretary of State has the power to impose restrictions on night-time flights at “designated aerodromes”. These aerodromes are London Heathrow, Gatwick and Stansted.
- 8.9 The restrictions as they stood in 1994 were found in the document known as UK NOTAM S45/1993. Those restrictions were, from the outset, controversial and they have been updated on a number of occasions since then.
- 8.10 In practice, the restrictions have been based on:
- (1) Setting a limit on the overall number of night flights;
  - (2) Placing restrictions on the noisiest aircraft types; and
  - (3) Setting noise quotas which cap the amount of noise energy which can be emitted at night over the course of the regime .

In order to achieve these purposes, NOTAM S45/1993 defined various categories of aircraft by reference to a “quota count” – these were 0.5, 1, 2, 4, 8 and 16. In addition to the six categories defined at paragraph 3(1) and (2) of the notification, paragraph 3(1) and (3) defined a class of “exempt aircraft” as follows:

“...

- (a) those jet aircraft with a maximum certificated weight not exceeding 11.600 kg, and
- (b) those propeller aircraft,

which on the basis of their noise data are classified at less than 87 EPNdB and which are indicated as exempt in Part 2 of the Schedule to this Notice.”

- 8.11 Under paragraphs 4 and 5 of NOTAM S45/1993, aircraft with a quota count of 8 or more were excluded from take-off or landing between 2300-0600, with quota count 8 aircraft also excluded between 0600-0700



8.12 Under paragraph 7 of NOTAM S45/1993, overall limits on movements were imposed by reference to quota figures. Exempt aircraft were excluded from this quota. In subsequent NOTAMs, the category of exempt aircraft has been retained but the definition is restricted to the quietest of aircraft. Since 2006, additional bands (first QC/0.25 and then others) have been introduced and the exempt category has been altered to be defined solely by reference to noise data.

## C- The Permission

8.13 The Permission states at Condition 1 that it relates to *“the relaxation of operating hours at Leeds-Bradford Airport, (the airport), and the controls and limitations to be applied to night-time operations.”* It defines terms such as Summer Season, Winter Season, night-time period and aircraft movement. It continues:

*e. Quota count means the value assigned to a take-off or landing of an aircraft which is related to its noise classification as defined in the Civil Aviation Authority UK NOTAM S45/1993*

Condition 6 was first imposed by planning permission reference 29/114/93/FU (“the 1994 Permission”). It remains as now found on the Permission which states

*“During the night-time period, (2300-0700), no aircraft movements shall take place other than by:-*

*a. Landings by aircraft classified as falling within Quota Count 0.5 and 1 for arrivals as defined in UK NOTAM S45/1993 issued by the Civil Aviation Authority and any succeeding regulations or amendments/additions/deletions.*

*b. Departures by aircraft classified as falling within Quota Count 0.5 for departures as defined in UK NOTAM S45/1993 issued by the Civil Aviation Authority and any succeeding regulations or amendments/additions/deletions.*

*c. Aircraft which are approved by the Local Planning Authority and have, taking account of maximum take-off weights and stage lengths, an EPNdB value of not greater than 90 on departure.*

*d. Aircraft approved by the Local Planning Authority and which, by the demonstration of performance data collected at Leeds-Bradford Airport, have, taking account of maximum take-off weights and stage lengths, a 90dB(A) SEL noise contour. on departure the same or smaller than, the 90dB(A) SEL noise contour for a Boeing 737-300/757 as shown on plan 6.*

*e. Exempt aircraft defined by UK NOTAM S45/1993.*

8.14 Condition 7 then imposes a maximum number of aircraft movements in the night-time period by aircraft *“specified in condition 6(a) to (d)”*

8.15. The reasons section (paragraph 16) of the Permission confirms that the reason for Conditions 5, 6 and 7<sup>1</sup> was to *“minimise the potential for increased noise disturbance to residents in the vicinity of the airport”*.

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<sup>1</sup> as well as 2,4,5,7,8,9,10, and 11

8.16 It should be noted the scheme of conditions in the Permission is not the same as that of even the original NOTAM document (S45/1993). Whereas NOTAM S45/1993 imposed a quota for each airport to which different kinds of air movements counted to different degrees (i.e. a QC/1 movement was worth double a QC/0.5 movement), Condition 7 of the Permission does not. Instead it imposes a limit on the absolute number of qualifying movements. Further, although Condition 6 borrows the definition of particular kinds of aircraft from NOTAM, those definitions are not used in the same way as under the NOTAM regime. For example, whilst the Conditions of the Permission impose an absolute movement limit they do not permit additional/alternative Noise Quota limits encouraging quieter aircraft, the Conditions simply use the NOTAM Noise Quota Count classification to define that only quieter aircraft can operate at all during the night.

#### D – Interpretation of Condition 6(e)

8.17 Condition 6 (a) – (d) together with Condition 7 result in aircraft movements of the type specified being restricted during the night-time period, in response to the need to minimise the potential for increased noise disturbance to residents in the vicinity. Condition 6 (e) identified those that were considered as exempt, and so did not contribute towards the cap due to the fact they were very rare in terms of aircraft movements (i.e. not commercial) and created noise levels that were so minimal in terms of noise disturbance to residents, that they did not need to be controlled.

8.18 In order to ensure the Condition remained fit for purpose over time, it was necessary to apply the relevant NOTAMs and any successor to it issued by the Civil Aviation Authority to deal appropriately with the effects of noise and vibration connected with aircraft movements. So, Conditions 6(a)-(b) include an automatically updating reference to any replacement NOTAMs (“issued by the Civil Aviation Authority and any succeeding regulations or amendments/additions/deletions” (emphasis added)).

8.19 Officers consider the same automatic update applies in condition 6(e), whether as a matter of interpretation or implication, though it is not spelled out expressly. Condition 6 was imposed to minimise the potential for increased noise disturbance to residents, in a permission which controlled and limited night time operations. Exempt aircraft do not count towards the quota cap which raises the prospect they could be operated in excess, thus impacting on residents. It would make no sense for such an exemption to be interpreted restrictively as technology advances and new aircraft are invented. A literal interpretation of NOTAM S45/1993 would fix not only the sound level, but also the specific types of aircraft as they were in 1993 and set out in that NOTAM. It would not, therefore, take account of new aircraft or new technologies.

8.20 This approach considers what the reasonable reader would Condition 6(e) to mean, having regard to the context of both the permission and the Condition and common sense. When read sensibly and as a whole all references to NOTAM S45/1993 must be read so as to include any succeeding update issued. Any alternative interpretation would result in the most up to date NOTAM being used to control some permitted aircraft movements (e.g. those falling within Condition 6(a)-(e), when a NOTAM of 20 years ago being used to determine

which aircraft are exempt from those restrictions. The position of the Council is that such an interpretation would undermine the purpose supporting both the NOTAMs and the Conditions.

## E – This application

8.21 In order to determine whether a certificate in respect of the Application can be issued, it is necessary to conclude whether the aircraft movements specified within the description of the development are exempt aircraft and thus are permitted to fly during the night time period, regardless of the cap set out in Condition 7.

8.22 For the reasons set out above, the relevant NOTAM for determining which aircraft are deemed as exempt is AIP Supplement 061/2023 para 3.1(a) and para 3.2 which defines exempt aircraft as:

- light propeller-driven with a max certified take-off weight not exceeding 8,618kg and that the aircraft is being utilised to undertake essential airport safety checks.

8.23 Therefore those aircraft specified within the description of development in the Application are not aircraft defined as exempt by virtue of the updated NOTAM and do not therefore fall within Condition 6(e). They cannot therefore fly during the night time period regardless of Condition 7.

## 9. Conclusion

9.1 For the reasons outlined above, the relevant NOTAM by which the definition of exempt aircraft are based is AIP Supplement 061/2023 .

9.2 Therefore, those aircraft with a maximum certified weight not exceeding 8,618 kg and those propeller aircraft which on the basis of their noise data are classed as less than 87 EPNdB and which are indicated as exempt in part 2 of the schedule of NOTAM S45/1993 are not defined as exempt and therefore the Application is refused.

## RECOMMENDATION:

Refuse for the following reason(s):-

- 1) Regardless of the cap on movements in Condition 7, it is lawful for aircraft to take off and land at Leeds Bradford Airport during the hours of 23:00-07:00 where they fall within the definition of 'exempt aircraft' in NOTAM s45/1993 i.e (a) those aircraft with a maximum certified weight not exceeding 11,600 kg and (b) those propeller aircraft which on the basis of their noise data are classed as less than 87 EPNdB and which are indicated as exempt in part 2 of the schedule of NOTAM S45/1993 notice.
- 2) Leeds and Bradford Airport, Victoria Avenue, Yeadon

The evidence submitted with the application does not, on the balance of probabilities, support the applicants case.

Having regard to the purpose of and reasons for Condition 6 (a) - (e) together with Condition 7, the LPA consider that the relevant NOTAM by which the definition of exempt aircraft are currently based is AIP supplement 061/2023 (and thereafter any subsequent NOTAMs) which defines exempt aircraft as light propeller-driven with a max certified take-off weight not exceeding 8,618kg and that the aircraft is being utilised to undertake essential airport safety checks.

Therefore aircraft with a maximum certified weight not exceeding 8,618kg and those propeller aircraft which on their noise data are classed as less than 87 EPNdB and which are indicated as exempt in part 2 of the schedule NOTAM s45/1993 are not defined as exempt by virtue of the updated NOTAM and do not therefore fall within Condition 6(e). They cannot fly during the night time period regardless of the cap on movements in Condition 7.

The Application is refused.

**For information:-**

**This recommendation relates to the following Refused Plans**

Plan Type	Plan Reference	Version	Received
Site Location Plan/Red Line/OS Plan	LBA-MML-A-100-XX-DR-35001		14.12.2023

