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# London Luton Airport Expansion

Planning Inspectorate Scheme Ref: TR020001

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**7.01 Planning Statement**

**Appendix C - Open Space Assessment**

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APFP Regulation: 5(2)(c)



**The Planning Act 2008**

**The Infrastructure Planning (Applications: Prescribed Forms and Procedure)  
Regulations 2009**

**London Luton Airport Expansion Development Consent  
Order 202x**

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**7.01 PLANNING STATEMENT APPENDIX C -  
OPEN SPACE ASSESSMENT**

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## C1 Introduction

- C1.1.1 This Open Space Assessment has been prepared to support the application for development consent and considers the impact of the Proposed Development on open space with regard to relevant planning policy and also the tests in section 131 and 132 of the Planning Act 2008 (Ref 1.1).
- C1.1.2 Open space is defined in the Town and Country Planning Act 1990 (Ref 1.2) as land laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground. Open space makes a major contribution to emotional and physical well-being, by ensuring that communities are attractive places to live, work and visit. They are also a key contributing factor in providing adequate opportunities for people to maintain healthy lifestyles.
- C1.1.3 The Proposed Development would impact on the existing open space at Wigmore Valley Park (WVP), requiring it to take on a different overall footprint. The Applicant recognises the responsibility to replace open space affected by the proposals with a facility that is comparable in terms of size, usefulness, attractiveness, quality and accessibility as may be lost through the airport expansion plans and the need to do so in a manner that minimises impacts on the environment and local community.
- C1.1.4 The methodologies, assumptions, limitations and baseline conditions employed for assessing the likely effects on health and community, as a result of the open space proposals, from the construction and operation of the Proposed Development can be found in **Chapter 13** of the **ES [TR020001/APP/5.01]**.

## C2 Legislative Context

- C2.1.1 Sections 131 and 132 of the Planning Act 2008 (Ref 1.1) make provision for special parliamentary procedure to apply where a development consent order authorises the compulsory acquisition of land, or rights over land, forming part of a common, open space, or fuel or field garden allotment. Section 131 applies to development consent orders which authorise the compulsory acquisition of land whereas section 132 applies where the compulsory acquisition is of a right over land. The application for development consent only acquires land, rather than rights over land and section 132 is therefore not engaged.
- C2.1.2 Special parliamentary procedure will apply in such cases unless the Secretary of State is satisfied that one of the following circumstances applies:
- replacement land has been, or will be, given in exchange for land being compulsorily acquired (sections 131(4) or 132(4));
  - the land being compulsorily acquired does not exceed 200 square metres in extent or is required for specified highway works, and the provision of land in exchange is unnecessary in the interests of people entitled to certain rights or the public (sections 131(5) or 132(5));
  - for open space only, that replacement land in exchange for open space land being compulsorily acquired is not available, or is available only at a prohibitive cost, and it is strongly in the public interest for the development to proceed sooner than would be likely if special parliamentary procedure were to apply (sections 131(4A) or 132(4A)); or,
  - for open space only, if the land, or right over land, is being compulsorily acquired for a temporary purpose (sections 131(4B) or 132(4B)).
- C2.1.3 With regard to the Proposed Development, section 131(4) applies as:
- replacement land has been or will be given in exchange for the order land, and*
  - the replacement land has been or will be vested in the prospective seller and subject to the same rights, trusts and incidents as attach to the order land.*
- C2.1.4 Replacement land is defined in s131 as:
- land which is not less in area than the order land and which is no less advantageous to the persons, if any, entitled to rights of common or other rights, and to the public.*
- C2.1.5 The assessment that follows in this Open Space Assessment demonstrates the above requirements are satisfied. Therefore, the special parliamentary process referenced in section 131(3) is not engaged. Section 131(3) states:
- “An order granting development consent is subject to special parliamentary procedure, to the extent that the order authorises the compulsory acquisition of a right over land to which this section applies by the creation of a new right over land, unless—*

- a. *The secretary of state is satisfied that one of subsections (4) to (5) applies, and*
- b. *That fact, and the subsection concerned, are recorded in the order or otherwise in the instrument or other document containing the order.”*

C2.1.6 Furthermore, section 131(3) is not engaged as section 131(4) is.

C2.1.7 Overall, the Proposed Development meets the requirements of the relevant legal tests set out above.

### C3 Planning Policy Context

- C3.1.1 The Airports National Policy Statement (ANPS) (Ref 3.1) at paragraph 5.106 suggests *“Access to high quality open spaces and the countryside and opportunities for sport and recreation can be a means of providing necessary mitigation and / or compensation requirements...”* Notably, paragraph 5.112 states *“Existing open space, sports and recreational buildings and land should not be developed unless the land is no longer needed or the loss would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location”* Paragraph 5.120 reiterates *“Any exchange land should be at least as good in terms of size, usefulness, attractiveness, quality, and accessibility...”* Importantly paragraphs 5.123-5.124 highlight:
- “The applicant is expected to take appropriate mitigation measures to address adverse effects on National Trails, other public rights of way and open access land and, where appropriate, to consider what opportunities there may be to improve access. The Secretary of State should not grant consent for development on existing open space, sports and recreational buildings and land, including playing fields, unless...the Secretary of State determines that the benefits of the project outweigh the potential loss of such facilities, taking into account any positive proposals made by the applicant to provide new, improved, or compensatory land or facilities.”*
- C3.1.2 Chapter 8 of the National Planning Policy Framework (NPPF) (Ref 3.2) states that planning policies and decisions should aim to achieve healthy, inclusive, and safe places (paragraph 92). Open space should be taken into account in planning for new development and considering proposals that may affect existing open space (paragraph 96). Paragraph 98 emphasises that *“...access to a network of high-quality open spaces...is important for the health and well-being of communities...”* Paragraph 99 indicates that existing open space should not be built on unless *“...the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location.”* Paragraph 130 seeks to ensure that developments create places which *“...promote health and well-being, with a high standard of amenity for existing and future users”*.
- C3.1.3 Policy LLP25 of the Luton Local Plan (LLP) (Ref 3.3) seeks to promote high quality design which is safe and easily accessed by all members of the community. The policy notes that provision should improve access to open spaces and promote sport and physical activity and healthy communities. Policy LLP27 seeks to safeguard and enhance existing networks of open space. Clause B refers to the loss of open space and notes that *“exceptionally, losses will be permitted where: i) Replacement Open Space provision can be made that is of an equivalent type, quality, and quantity or better and is accessible and within the vicinity; or ii) the proposal is for alternative or ancillary sports and recreational provision, the need for which clearly outweighs the loss.”* Clause C of the policy refers to development on open space and indicates that *“development will only be permitted where development is ancillary, complementary, and limited in scale securing the efficient and effective use of the existing green space.”*

C3.1.4 Policies NE5 of the North Hertfordshire District Council Local Plan (NHDCLP) (Ref 3.4) concerns the protection of open space and Policy NE6 suggests support for development proposals that make provision for new and/or improved open space.



## **C4 Existing open space around the main application site**

- C4.1.1 The land use within the eastern part of the Main Application Site is principally arable but includes also WVP, a designated District Park and area of public open space. WVP is recognised to form part of the Luton Green Infrastructure Network, is popular for dog walking and recreation, and includes mown open grassland, scrub grassland, woodland, allotments, a playpark, skate park, car park and a pavilion building. The existing landscape is crossed by several Public Rights of Way (PRoW), including the Chiltern Way long distance footpath. The total existing area of WVP is 41.6ha.
- C4.1.2 The existing open space at WVP would be impacted by landfill remediation works which are unavoidable and necessary to enable the Proposed Development.
- C4.1.3 Therefore, there is need for the provision of Replacement Open Space for WVP to protect more valued existing habitat and landscape features, provide improved enclosure and screening to development at the airport, improve connectivity to the existing parkland areas to be retained, and to reposition it closer to the community it serves.

## C5 Replacement Open Space proposals (Work No. 5)

- C5.1.1 The Replacement Open Space is an integral part of the Proposed Development, which, in line with policy, is needed to replace existing public open space that would be lost to development in the western part of WVP.
- C5.1.2 Land further to the east of WVP and to the south of Darley Road is currently in agricultural use and would be used for the Replacement Open Space for WVP, (as shown on **Figure 14.11** of the **ES** [TR020001/APP/5.03], also below as **Figure C5.1**).

**Figure C5.1** Proposed Replacement Open Space



C5.1.3 The Replacement Open Space would be provided as part of assessment Phase 1 and has been designed to include the following landscape features to avoid, minimise, replicate and/or replace landscape and visual effects:

- a. the restoration of boundary hedgerows where necessary adjoining Darley Road and Winch Hill Road;
- b. the planting of screening hedgerows and woodland to the south west of PRow Kings Walden 041, where forming part of the Chiltern Way; the planting of boundary hedgerows for screening, adjoining excavation areas on the south west boundary of the Replacement Open Space;
- c. the planting of woodland on the ridgeline of Winch Hill, between the retained mature woodland/hedgerow vegetation and coniferous plantation and the retained hedgerow vegetation on the south east boundary of the existing WVP, to provide screening and improve connectivity; and
- d. the planting of hedgerow trees within restored and screening hedgerows at regular spacings; and the creation of improved meadow and mown grassland within the area of replacement parkland.

C5.1.4 Delivery of the Replacement Open Space would also ensure:

- a. the functionality of the PRow network is protected throughout construction, to enable users to continue to exercise their rights whilst also protecting them from construction traffic;
- b. parkland areas are made secure through the excavation of ditches and/or creation of hedge banks adjoining Winch Hill Road and Darley Road and through the installation of gates and/or hardwood timber bollards at entrance points;
- c. street furniture elements are agreed with relevant stakeholders and have a coordinated appearance that is appropriate to the surroundings;
- d. circulation routes are agreed with relevant stakeholders and make provision for a range of users (including cyclists, horse riders and pedestrians); and
- e. an area at least as large as may be affected by the proposed works is made available for use by the public ahead of any site clearance activities that would impact existing public open space and construction operations (not associated with the Replacement Open Space) commencing within the area of existing open space. Overall, approximately 6 ha of open space will be added to WVP.

## C6 Assessment

- C6.1.1 Embedded and good practice mitigation for health and the community has been incorporated into the Proposed Development design or assumed to be in place before undertaking the assessment.
- C6.1.2 A series of surveys of open spaces and recreational routes have been undertaken to verify the baseline of community resources, and to ascertain quality and usage. These were undertaken throughout 2019 (from April to November) prior to any changes in usage resulting from the Covid-19 lockdowns. Results of the open space surveys have been used to determine significance and in particular receptor sensitivity by providing further details on use of the space. Further details of the methodology for undertaking open space surveys and the results can be found in **Appendices 13.1 and 13.2** of the **ES [TR020001/APP/5.02]**.
- C6.1.3 The design of the Proposed Development retains the existing entrance and eastern part of WVP and integrates it into a new area of Replacement Open Space, to be provided over a larger area to the east of the existing park.
- C6.1.4 The Replacement Open Space would be delivered in assessment Phase 1, prior to the main excavation works commencing, and excavation would take place to the south of the Replacement Open Space. This will provide greater opportunity for the landscape mitigation proposed within the Replacement Open Space to establish, improve habitat connectivity, frame people's views and help screen change beyond its limits. Residential and recreational receptors to the north of the Main Application Site would therefore be screened from the works.
- C6.1.5 The existing area of WVP covers 41.6ha, this includes a mixture of land defined as 'District Urban Park and Garden' (of 35.5 ha) and 'Natural and Semi-Natural Greenspace'. Following completion of enhancements to open space and creation of new Replacement Open Space provided as part of the Proposed Development, WVP will be at least 47.5ha in size, comprising a 14.4% increase.
- C6.1.6 The Replacement Open Space would retain the existing main entrance into WVP, adjoining Wigmore Hall and Wigmore Pavilion, and would incorporate several of the enhanced facilities proposed in this area as part of Green Horizons Park (i.e. the improved skate park and play facilities and the refurbished Wigmore Pavilion).
- C6.1.7 The Replacement Open Space would focus on the establishment of natural habitats, delivering areas of meadow grassland, native shrub planting, broadleaf woodland, and mixed-species hedgerows with hedgerow trees, as well as several surfaced footpaths to upgrade connections to the surrounding rights of way network. The Replacement Open Space will be delivered entirely within the road network and nearer to the existing communities it serves; to minimise earthworks activities near the more frequently used parts of the replacement area of parkland; to protect more of the existing scrub and woodland vegetation on Winch Hill; and to ensure valued archaeological and habitat features are not impacted by construction activities.

- C6.1.8 A range of users will be encouraged to make use of the Replacement Open Space. These users have been identified through the open space surveys (further details can be found in **Appendices 13.1** and **13.2** of the **ES [TR020001/APP/5.02]**) which provide information on the number and types of usage which includes but is not limited to: families, teenagers, school groups, the elderly, walkers, joggers, planespotters, cyclists, dog walkers, skaters and horse riders. The proposals would accommodate appropriate signage and facilities to help support these various user groups. It is envisaged that the Replacement Open Space would deliver additional opportunities for unstructured or natural play and would also include some additional recreational facilities, the specific nature of which is still to be determined but could potentially include additional picnicking facilities, play equipment, gym equipment or trim-trail measures.
- C6.1.9 Once the replacement park is open, part of the existing park will be taken for construction of the main works of the Proposed Development. Several features will be retained but some of the semi-improved grassland, tall ruderal herb and scrub vegetation in the west of the park will be lost. The loss will be fully mitigated by:
- a. the enhancement of existing facilities, such as the upgrading of existing footpaths and new signage;
  - b. the provision of a larger area of publicly accessible open space; and
  - c. the continuation of accessibility to the park through the existing main entrance and within the Replacement Open Space through the upgrading of existing rights of way and new surfaced paths which further improve public accessibility.
- C6.1.10 Until the landscape matures it may not be as attractive for users (see **Chapter 14** of the **ES [TR020001/APP/5.01]**) and users may be subject to visual impacts associated with the construction of the Proposed Development, although from a community perspective no significant in-combination effects have been identified. The park would retain many of the mature trees and much of hedgerow vegetation that defines the east and south east boundary of the existing WVP. It would encompass several other important landscape features within the surrounding area, including a section of mature hedgerow on Winch Hill.
- C6.1.11 Additional footpaths and bridleways will be provided as part of the Replacement Open Space during assessment Phase 1.
- C6.1.12 Notably, all works to deliver the replacement open space would be undertaken during construction for assessment Phase 1, with areas made available for use by the public before the end of 2025.

## C7 Conclusion

- C7.1.1 In summary, the Proposed Development involves an enhancement of the parkland and open space with the provision of a larger area, which retains key facilities built as part of the extant Green Horizons Park planning consent to the north and would remain fully accessible to the public throughout the construction period. The replacement open space would be delivered in assessment Phase 1, prior to the loss of the existing open space. The impact of the closure and re-provision of part of WVP represents a minor beneficial permanent effect for users of the park.
- C7.1.2 The Replacement Open Space Proposals satisfy the legal tests set out in sections 131 and 132 of the Planning Act (2008).
- C7.1.3 Due to the Replacement Open Space proposals, there is anticipated to be change to the character of the WVP. However, its accessibility and function will not change. The Park will continue to provide access to green space, recreation and physical activity for the local population. Therefore, **ES Chapter 13 [TR020001/APP/5.01]** concludes no impact on the health determinant of 'Access to open space, recreation and physical activity'. This is in line with ANPS policy 5.106 (Ref 3.1), NPPF paragraphs 96 and 98 (Ref 3.2) and NHDCLP policies NE5 and NE6 (Ref 3.4).
- C7.1.4 The aforementioned qualitative studies have been undertaken and have informed the proposals for re-provision ensuring that the replacement open space is of equivalent or better provision in terms of size, usefulness, attractiveness, quality, and accessibility, as set out in **Section 13.9 of Chapter 13** of the **ES [TR020001/APP/5.01]**. This is in accordance with paragraphs 5.112 and 5.120 of the ANPS (Ref 3.1). The type, quality, quantity, and accessibility of the Replacement Open Space provided would be equivalent or better and this aligned with LLP policies LLP25 and LLP27 (Ref 3.3) and NPPF Paragraph 99 (Ref 3.2).
- C7.1.5 Additionally, footpaths and bridleways will be provided as part of the Replacement Open Space. Analysis in **Chapter 13** of the **ES [TR020001/APP/5.01]** found that there would be no adverse effects on open access land as a result of the Proposed Development, thereby demonstrating compliance with paragraphs 5.123 and 5.124 of the ANPS (Ref 3.1).
- C7.1.6 Therefore, with regard to Replacement Open Space proposals, the Proposed Development is considered to be acceptable and accord with national and local planning policy.

## GLOSSARY AND ABBREVIATIONS

<b>Term</b>	<b>Definition</b>
ANPS	Airports National Policy Statement
LLP	Luton Local Plan
NPPF	National Planning Policy Framework
NHDCLP	North Hertfordshire District Council Local Plan
PRoW	Public Rights of Way
WVP	Wigmore Valley Park

## REFERENCES

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Ref 1.1 Planning Act 2008

Ref 1.2 Town and Country Planning Act 1990

Ref 3.1 Department for Transport. (2018) The Airports National Policy Statement. London: the Stationery Office.

Ref 3.2 Ministry of Housing, Communities & Local Government. (2021) National Planning Policy Framework. London: the Stationery Office.

Ref 3.3 Luton Borough Council. (2017) Luton Local Plan 2011-2031.

Ref 3.4 North Herts Council. (2022) North Hertfordshire District Local Plan 2011-2031.