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Date: 14 March 2023

By Email Only

Dear Sir/Madam,

Re: Application by London Luton Airport Limited for an Order Granting Development Consent for the Expansion of London Luton Airport

Adequacy of Consultation Representation

Thank you for your letter dated 28th February 2023 inviting North Hertfordshire District Council (NHDC) to comment on the adequacy of consultation in relation the above application.

Our response to Sections 42, 47 and 48 of the Planning Act 2008 ('the Act') are addressed in turn below.

1. Section 42 Duty to consult

NHDC was consulted on and responded to two s42 Statutory Consultation exercises undertaken by London Luton Airport Limited (LLAL) in relation to the proposed development. The first took place between 18th October 2019 and 16th December 2019 (extended to 24th December for the host authorities).

The second Section 42 Statutory Consultation was undertaken between 8th February 2022 and 4th April 2022 and are as described in sections 4 and 6 of 6.01 Consultation Report, where NHDC was notified of the deadline for the receipt of responses and the period of consultation was in excess of 28 days.

NHDC was one of four local authorities identified as falling within Section 43(1) of the Act (the other three being Hertfordshire County Council, Central Bedfordshire Council and Luton Borough Council) The four 'host authorities' appointed consultants WSP and Vincent and Gorbing to review the Preliminary Environmental Impact Report (PEIR1)

which formed part of the first statutory consultation exercise, with the consultants providing a joint response for the host authorities.

For the second consultation the four host authorities again appointed WSP and Vincent and Goring to review the consultation documents (including a second Preliminary Environmental Impact Report [PEIR2]) and to submit a joint response on behalf of the host authorities. In addition to this joint response NHDC provided its own response on 4th April 2022.

NHDC has no reason or evidence to assume that the contents of the Consultation Report (document ref: TR020001/APP/6.01) are other than generally correct with regard to the requirements of s42 and that those requirements have been satisfied.

2. Section 47 Duty to consult local community

2.1 Section 47(2) and Section 47(5)

NHDC can confirm that it received two s47(2) consultations in 2019 and 2022 on a draft Statement of Community Consultation. (SoCC - 6.02 Appendix B and 6.02 Appendix G).

The 2019 draft Statement of Community Consultation (SoCC) was made available to the host authorities in April/May 2019 and then subject to statutory consultation between 13th June to 17th July 2019. The consultation period was extended to 18th July 2019 following the issue of an errata statement by LLAL noting correction to an omission in the 2019 draft SOCC. In accordance with s47(5) NHDC provided its comments on the draft SoCC on 18th July 2019 with a number of recommendations, most of which were picked up in the published SoCC, with the statutory consultation that took place from the 18th of October 2019.

The second SoCC consultation took place between 6th August to 17th September 2021. Again, in accordance with s47(5), NHDC submitted its response to this consultation on 17th September 2021 with a number of comments and acknowledging the digital format for formal engagement as an appropriate mechanism given the impact of the Covid-19 pandemic (with regard to social distancing and public interaction). The SoCC was then published in January 2022, with the statutory consultation running for eight weeks.

Table 3.1 of the Consultation Report (SoCC – 6.01) summarises the response received on the 2019 draft SoCC from NHDC and the regard had to that response. NHDC considers that these accurately reflects the representations that were made by the Council.

With regard to the 2021 draft SoCC, Table 5.2 of the Consultation Report (SoCC – 6.01) and Appendix G of the Consultation Report (SoCC- 6.02) summarises the responses received from NHDC, and the regard had to that response. NHDC considers that these represent a fair reflection of the response submitted by the Council.

Copies of the NHDC responses to the above SoCC consultations are attached at Appendix 1 and 2.

2.2 Section 47(6)

NHDC has had regard to the Consultation Report (SoCC - 6.01) and has no reason or evidence to assume that the contents of that report are other than correct and that the s47(6) Duty to publicise requirements have been satisfied.

2.3 Section 47(7)

NHDC has had regard to the Consultation Report (SoCC – 6.01) and has no reason or evidence to assume that the contents of that report are other than correct, that consultation was carried out in accordance with the Statement of Community Consultation (with the exception of those matters highlighted within Section 5.5 of the Consultation Report) and that the requirements of s47(7) have been generally satisfied.

2.4 Section 48 Duty to publicise

NHDC has had regard to the Consultation Report (SoCC – 6.01) and has no reason or evidence to assume that the contents of that report are other than correct and that the s48 Duty to publicise requirements have been satisfied.

3. Non-statutory consultation

NHDC was consulted on and responded to the 2018 non-statutory consultation described in section 2 of the Consultation Report (SoCC – 6.01) and considers that the ‘Local Authority Engagement’ set out in section 1.4 and ‘Informal Stakeholder Engagement’ set out in Section 7 of Consultation Report (SoCC - 6.01) are generally correct.

4. Wider Consultation/Engagement Issues

The host authorities’ commissioned WSP (supported by Suono on noise) to provide a technical assessment of the consultation material and Vincent and Goring to provide a collective response to the two statutory consultations. Both these documents (attached at Appendix 3 and 4) raised concerns about the quality of the consultation materials and of the applicant’s engagement with the host authorities. Whilst the host authorities were of the view that the second statutory consultation represented a significant improvement on the first, they remained of the view that further engagement was required in the period up to submission.

‘2.6 Overall, we consider that this consultation provides a significant step forward. In preparing this response we have sought to be constructive and reasonable and to establish a further platform from which to focus our ongoing engagement in the period up to submission and beyond.’

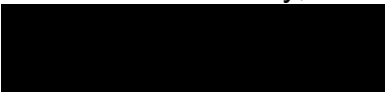
Whilst there has been engagement since the second statutory consultation, the host authorities have continued to raise concerns relating to the need for a more constructive engagement in advance of submission. For example, the response of:

- the host authorities to an informal consultation by the applicant on a selection of draft submission documents (attached as Appendix 5).
- the host authorities to an informal consultation by the applicant on a draft Statement of Common Ground (attached as Appendix 6).

The consequence of this is that there unfortunately remains a considerable number of outstanding issues that have not been the subject of sufficient engagement between the applicant and the host authorities in advance of submission and that therefore remain unresolved. The consequences of this include:

- i. it has not been possible to substantively progress the Statement of Common Ground (Appendix 6).
- ii. the scale of the resources required by the authorities to review the application as submitted are greater than they might otherwise have been – to the extent that the authorities have sought (letter to applicant attached as Appendix 7 to this response) additional PPA funding from the applicant to help assist with this (as well as other resource demands required of the process).
- iii. it will be challenging for the authorities to review the application with regard to those outstanding matters within the timeframe for submission of relevant representations, particularly given they will need to commission specialist technical and legal advice to assist that process.

Yours faithfully,



Ian Fullstone
Service Director - Regulatory
North Hertfordshire District Council

Attachments:

Appendix 1 – NHDC Response to Draft SoCC Consultation 18.07.2019

Appendix 2 – NHDC Response to Draft SoCC Consultation 17.09.2021

Appendix 3 – Host Authorities 2019 Statutory Consultation Response 23.12.2019

Appendix 4 – Host Authorities 2022 Statutory Consultation Response 4.04.2022

Appendix 5 – Copy Email Re: informal consultation on draft submission documents on behalf of Host Authorities 14.10.2022

Appendix 6 – Copy of Email Re: SOCG Response on behalf of Host Authorities 20.01.2023

Appendix 7 – Letter Re: Resourcing the engagement of the host authorities 20.01.2023

APPENDIX 1

NORTH HERTFORDSHIRE DISTRICT COUNCIL

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Date : 18 July 2019

Fergus McMorrow
GL Hearn Limited
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Our Ref:
Your Ref:

Contact Officer : Clare Skeels
Direct Line : [REDACTED]
E-mail : [REDACTED]@north-
herts.gov.uk

By email only

Dear Sirs

Statement of Community Consultation for London Luton Airport – Statutory Consultation 2019

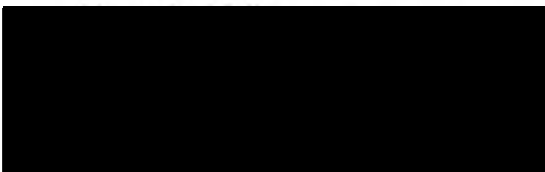
Thank you for the opportunity to comment on the Statement of Community Consultation – Statutory Consultation 2019.

The Council notes that the comments made in respect of the draft Statement of Community Consultation earlier in the year have been incorporated into the Statutory Consultation document. The Council also welcomes the addition of the maps in the appendices which clearly set out the geographical extent for the distribution of information leaflets and the associated consultation events.

However, the Council is still unconvinced that the chosen consultation venue in Letchworth Garden City is the most appropriate. It is considered that the Mrs Howard Memorial Hall, Norton Way South, Letchworth Garden City is a more central location with sufficient car parking and access to public transport and could attract more visitors.

In terms of Section 4 of the SoCC, "Publicising the Consultation", the Council's comments about the extent of the geographical coverage for the leaflet distribution remain unresolved. Whilst the following parishes may not lie in the London Luton flightpath, the Council considers that there may be significant effects in these parishes from any proposed development of the airport and consider that residents and businesses should be made aware of the proposals at the earliest opportunity. The Council would like to see leaflets distributed in the following parishes: Offley & Cockernhoe; Lilley; Hexton; Kings Walden; St Pauls Walden; Preston; Langley; St Ippolyts; Kimpton; Knebworth and Wymondley.

Appendix 2 of the SoCC should be updated to reflect the addition of consultation events at Breachwood Green and Redbourn and the listed event at Whitwell to illustrate where leaflets will be distributed in these locations.

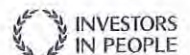


Executive Member for Planning and Transport

North Hertfordshire District Council, Council Offices, Gernon Road, Letchworth Garden City, Hertfordshire, SG6 3JF

David Scholes
Chief Executive

www.north-herts.gov.uk



APPENDIX 2

NORTH HERTFORDSHIRE DISTRICT COUNCIL

Council Offices, Gernon Road, Letchworth Garden City, Hertfordshire, SG6 3JF

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LLAL Chief Executive
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Our Ref:

Contact Officer: Louise Symes

Direct Line: [REDACTED]

Email: [REDACTED][s@north-herts.gov.uk](mailto:[REDACTED]@north-herts.gov.uk)

Date: 17 September 2021

Sent by Email

Dear Mr Olver

Future LuToN - Statement of Community Consultation (SoCC) - Statutory Consultation – January 2022

Thank you for the opportunity to comment on the Statement of Community Consultation – Statutory Consultation 2022 (SoCC).

The Council notes that there will be a “digital first” approach to the consultation and that the Statement of Community Consultation has made provision for continuing the consultation in the event that COVID-19 restrictions are re-introduced during the consultation period. We also note that many of the community engagement methods for the forthcoming consultation are the same as the consultation methods outlined in the 2019 Statement of Community Consultation.

However, there are a couple of detailed comments that we would like to raise before the SoCC is finalised:

Section 1- Introduction

Consultation to Date – Section 1.3

At paragraph 1.1.3 an 8 week consultation period is proposed. Given the substantial amount of material and supporting documentation that will be available as part of the consultation, the scale of which may make it challenging to many parties wishing to engage in the process, it is suggested that serious consideration be given to extending the proposed consultation period to 10 or even 12 weeks.

Assuming that the summary of comments to the Statutory Consultation held in Autumn 2019 is completed, it is suggested and in the interests of assisting the public, that the feedback report is uploaded earlier rather than waiting to publish this as part of the launch of the second statutory consultation and suggest that paragraph 1.3.5 is amended accordingly.

Project Description – Section 1.4

At paragraph 1.4.3 the Council notes that there is no mention in the main elements of the project list about managing air quality and noise impacts, creating employment opportunities or seeking to

address wider surface access impacts beyond Luton Borough. Nor is there reference to working with neighbouring authorities at paragraph 1.4.5.

It is suggested that LLAL may wish to consider inclusion of these points in SoCC before it is published.

Changes to our proposals and updated supporting information – Section 1.5

At paragraph 1.5.3, the Council expresses its disappointment that there appears to be no mention of an updated surface access/transport report included in the list. As the Council would expect such work will have been undertaken in light of the comments received to the 2019 Autumn consultation and in seeking to address the requirements of the new PIER and the airport's Green Managed Growth Report.

Green Managed Growth – Section 1.6

The Council is of the view that more detail should be provided in the SoCC on the how GMG approach will be monitored and reported.

Section 3 - Statutory Consultation

Document Inspection Venues – Section 3.2

At paragraph 3.2.4, please note that currently, our Customer Service Centre is only open for essential appointments only and would not be fully open for members of the public to inspect the consultation documents on demand.

As a matter of detail, the SoCC will need to be updated to reflect the opening hours for the Council Offices before it is published.

The Council considers that additional document inspection venues should be added for North Hertfordshire at the libraries in Baldock, Knebworth and Letchworth Garden City as these venues were previously included as Document Inspection Venues in the 2019 SoCC and will be affected by the airport's expansion proposals.

Consideration should be given to reinstating the full list of document availability locations and if not, provide an explanation as to why changes have been made

Consultation events – Section 3.3

At paragraph 3.3.6, while the Council welcomes that, subject to Covid regulations, events will be held in Breachwood Green, Whitwell and Hitchin, the 2019 consultation programme included events in Letchworth and Royston. The Council is disappointed that there are no events planned for either Letchworth Garden City or Royston. Apart from reference to Covid regarding the risk of face-to-face meetings the draft SoCC provides no further reason or justification for the reduction in the number of exhibition points.

Consideration should be given to including additional events in these locations, most certainly within Letchworth Garden City and should be included on the Events Location Map at Appendix 1.

Section 5 – Engagement

Hard-to-reach Groups – Section 5.4

At Para 5.4.4 reference is made to making use of local authority contacts with the traveller communities in the local area to ensure that people without permanent addresses who reside in the

local area are informed about the consultation. The Council queries the reference to '*We will offer to support local authorities to deliver face-to-face engagement with these groups*' and why the applicant is expecting local authorities to deliver face-to-face meetings on the proposal?

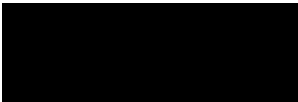
Clarity is sought on this point. The Council is willing to provide contacts but does not consider its role to deliver face to face engagement on behalf of the applicant.

Appendices

Map of development boundary

The first SoCC contained a map of the proposed development boundary as Appendix 1. It would be helpful for this SoCC to do likewise.

Yours faithfully



Councillor Sam Collins
Executive Member for Enterprise, the Arts and Transport.

APPENDIX 3

VINCENT+GORBING

Planning Act 2008 (as amended)

Application by London Luton Airport Limited (LLAL) for an Order granting
Development Consent for the
Expansion of London Luton Airport

PINS Reference: TR020001

Response to Statutory Consultation on behalf of the Host Authorities

Hertfordshire County Council, North Hertfordshire District Council,
Central Bedfordshire Council and Luton Borough Council



Planning Act 2008 (as amended)

Response to Statutory Consultation on behalf of

**Hertfordshire County Council, North Hertfordshire District Council,
Central Bedfordshire Council and Luton Borough Council**

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VINCENT AND GORBING
STERLING COURT
NORTON ROAD
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23 December 2019

1.0 INTRODUCTION

Context

- 1.1 This document provides a collective response by the host authorities to the statutory consultation documentation prepared by London Luton Airport Limited (“LLAL”) in respect of their project entitled “*Future LuToN: Making best use of our runway*” (the ‘Proposed Development’).
- 1.2 LLAL propose to increase the capacity of London Luton Airport (LTN) from the current consented capacity of 18 million passengers per annum (mppa) to 32 mppa and propose to apply for a DCO under the Planning Act 2008 (PA2008) as the Proposed Development is a nationally significant infrastructure project under Section 23 of that Act.
- 1.3 The Proposed Development includes a number of elements including *inter alia* an extended airfield platform, a new terminal, additional taxiways and aprons, additional parking, various airside and landside facilities, changes to surface access, surface water management, landscaping and replacement open space.
- 1.4 This response has been prepared by Vincent and Goring (V+G) and represents the collective response of :-
- Hertfordshire County Council (“HCC”)
 - North Hertfordshire District Council (“NHDC”)
 - Central Bedfordshire Council (“CBC”); and
 - Luton Borough Council (“LBC”)
- 1.5 Local authorities are identified as consultation bodies under the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 as each local authority that is defined within s43 of the PA2008.
- 1.6 Each of the above authorities fall into the s43 definition and each is in their own right a ‘host authority’ for the purposes of the Proposed Development as

some part of the land within their municipal area falls within the draft Development Order Boundary.

The WSP Technical Review

- 1.7 As well as this document, the host authorities are submitting a package of technical assessments of the statutory consultation documentation and an associated summary. This analysis has been prepared by environmental and engineering specialists at WSP and provides a detailed review of the content of the documentation. It has been the subject of consultation with various specialist officers within the host authorities and therefore can be taken as reflecting the detailed views of all four of the authorities. It will form the basis for further engagement with LLAL as the process moves forward.
- 1.8 It is not the intention here to repeat or summarise the detailed technical assessment work that has been undertaken by WSP. The intention of this document is to emphasise some broad strategic matters that are particular issues of concern to the host authorities. Equal weight should be given to the detailed technical assessment and the submitted documentation read as a whole.

Joint response and individual responses

- 1.9 In providing a single joint response in the form of the WSP package and this document, the host authorities emphasise the value of engagement wherever possible on a joint and co-ordinated basis throughout the DCO process. That said, the overall position of the authorities on the Proposed Development remains a matter for each authority and this document does not preclude individual authorities from expressing their views on the statutory consultation material as well as the overall case for or acceptability of the Proposed Development. However, the views expressed in this document are shared by all four authorities and for clarity the word 'we' in this document refers to those authorities.

Content of this document

- 1.10 This document makes comments on the following strategic issues:-
- Overall acceptability of the consultation material at this stage of the process (section 2.0);
 - Policy considerations and the need for the Proposed Development (section 3.0)
 - Cross topic issues concerning mitigation, management and monitoring (section 4.0);
 - Particular issues regarding surface access and noise (section 5.0)

2.0 COMMENTS ON THE CONSULTATION MATERIAL AND ENGAGEMENT

2.1 Statutory consultation is an important stage in the DCO process and a crucial opportunity to properly explain the proposals, the evidence collected to date on the baseline, the likely environmental impacts and proposals for mitigation, compensation and monitoring.

2.2 Government guidance provided in the publication *'Planning Act 2008: Guidance on the pre-application process'* makes clear that the pre-application stage is crucial to the effective operation of the national infrastructure consenting regime. The guidance highlights that thorough pre-application engagement can *"give the Secretary of State confidence that issues that will arise during the six months examination period have been identified, considered, and – as far as possible – that applicants have sought to reach agreement on those issues."* It goes on to state that:-

"Without adequate consultation, the subsequent application will not be accepted when it is submitted. If the Secretary of State determines that the consultation is inadequate, he or she can recommend that the applicant carries out further consultation activity before the application can be

accepted.¹

- 2.3 In general, we are content that the *Statement of Community Consultation* (SoCC), published as part of the Statutory Consultation documentation, sets out an engagement process which is appropriate.
- 2.4 However, although we consider that the consultation material meets the statutory requirements of the Planning Act 2008, we are concerned by the lack of detail in some areas of the assessment, and the lack of published evidence base to support the assessments made to date. Whilst it is appreciated that the PEIR can only be a 'point in time' indication of progress at the time of the statutory consultation, undertaking this consultation with significant areas of technical work still to undertake and publish brings into question whether this consultation is premature and in that respect adequate.
- 2.5 The PEIR lacks transparency across a number of topics (particularly but not exclusively noise, air quality, surface access and health) in relation to data inputs, assumptions and assessments. This limits the degree to which the technical analysis can be properly scrutinised at this stage.
- 2.6 We are therefore particularly concerned by the amount of information still to be provided and agreed prior to the submission of the application which is presently planned by LLAL for mid-2020. To achieve adequate consultation will require a 'step change' in technical engagement following the completion of this statutory consultation. We are keen to work collaboratively with LLAL and believe that a clear project plan needs to be provided by LLAL to formalise the engagement process henceforward. This needs to set out clear milestones for the provision of technical work and allow appropriate time for us to properly review this technical work and reach agreement wherever possible prior to the submission of the application. It is clearly in both our and LLAL's interests to achieve such agreement and minimise the degree of technical debate during the examination process in order to give the Secretary of State the confidence to accept the application once it is submitted.

¹ *Planning Act 2008: Guidance on the pre-application process*, Department for Communities and Local Government, March 2015, para.19

- 2.7 WSP's review has identified a number of areas where the PEIR is lacking in information, particularly around:-
- The description of the development itself;
 - Assessment of alternatives;
 - Full explanation of how consultation has informed the design of the Proposed Development;
 - Incomplete explanation of existing and future baseline;
 - Issues around assessment methods and data collection in some topics;
 - Lack of clarity around mitigation, enhancement and monitoring;
 - Incomplete Cumulative Effects Assessment.
- 2.8 We are particularly concerned that the description of the Proposed Development in the PEIR lacks clarity as to the phasing of the scheme, especially given the overall length of the construction period and the interaction of environmental effects at different stages of development.
- 2.9 To address this, a detailed description of the worst-case parameters of the proposals at the completion of each phase is required. WSP provide further analysis on this point in their technical assessment of the PEIR. The complexity of the phasing is such that WSP suggest year by year indicative plans and this is an approach that we fully endorse in order that there can be clarity as to the timescale for various elements of the Proposed Development to be brought forward and the related assessment of effects at each stage. This will be of particular value in the context of a comprehensive monitoring regime that we discuss further in Section 4.0 below. It will also allow clarity around EIA assessment years which is presently lacking.
- 2.10 It is clear from the PEIR that LLAL still have a considerable amount of technical work to complete prior to the submission of the application. Whilst it is appreciated that there must be a degree of fluidity in the proposals at this stage in the preparation of a DCO application in order that meaningful

consultation can take place that allows comments to influence the final proposals, there remains a lack of detail in certain areas of the environmental assessment work undertaken to date which makes providing a proper critique problematic.

- 2.11 The fixed programme for consideration of an application for a DCO once accepted is such that the level of scrutiny beyond this stage is necessarily focussed. It is essential that proper analysis of the technical and environmental issues is allowed for prior to the submission of the application. Indeed, in some areas (surface access being one, but others also), the amount of engagement prior to this statutory consultation has been insufficient. Detailed discussions regarding the drafting of the Development Consent Order itself, including mitigation and compensation proposals and protective provisions for the host authorities has also not taken place to date will also be needed.
- 2.12 The above comments need to be urgently addressed in the coming months in order that by the time the application is made we are able to be confident as to the adequacy of consultation and make representations to the Secretary of State accordingly.
- 2.13 In summary, we consider that the present lack of clarity in both the description of the development and the lack of detail in certain topic areas points to the need for a considerable amount of technical work and further engagement with statutory consultees prior to the submission of the application. Indeed, we consider that there may be a case for a further statutory consultation when the technical work is further advanced. Further consultation would allow for formal engagement with all statutory consultees and the local community. A more advanced scheme and additional technical work would ensure the fullest possible consideration of the proposals prior to submission.

3.0 POLICY CONSIDERATIONS AND THE NEED FOR THE SCHEME

Changing national policy

- 3.1 As accepted in the consultation material, national aviation policy is in a state of flux. A new Aviation Strategy is expected in Spring 2020. At the present time, the Aviation Policy Framework (APF) (2013), Making best use of existing runways (June 2018) and Airports National Policy Statement, June 2018 indicate that the government is supportive of airports beyond Heathrow making best use of their existing runways.
- 3.2 However, although if there is currently a national policy basis supporting the Proposed Development in principle, there must be some prospect that Government policy will change either before a decision on the application (which could therefore take any new policy into account) or during the phased expansion of the Airport. This is particularly so given that the Government has clarified the target of achieving net-zero greenhouse gas emissions by 2050 must cover the whole economy, including international aviation and shipping (IAS) emissions. The advice from the Climate Change Committee (“CCC”) to the Secretary of State dated 25 September 2019 makes clear that to achieve this will mean that *“demand cannot continue to grow unfettered over the long-term. Our scenario reflects a 25% growth in demand by 2050 compared to 2018 levels. This compares to current Government projections which are for up to a 49% increase in demand over the same period.”*² The Department for Transport has stated that the implications of the CCC’s recommended policy approach to aviation will be taken into account in further developing aviation policy through the Aviation 2050 process.
- 3.3 We consider that greater clarity is needed as to how future potential changes in policy on climate change and reduction in greenhouse gas emissions (including demand management) could be accommodated by the proposals in the future such that the growth of the airport can be managed within environmental limits. At the very least, LLAL needs to recognise and consider how to deal with the uncertainties in respect of future policy. In their technical

² Letter dated 25th September 2019 from Lord Deben, Chairman, Committee on Climate Change, to Grant Shapps MP, Secretary of State for Transport.

response, WSP have advised that LLAL should set out within the need case (and its greenhouse gases assessment as part of the ES) how it will seek to demonstrate alignment with potential targets and carbon budgets, through further sensitivity testing. We consider that this is a necessary element in proving the future consistency of the Proposed Development with the changing policy landscape.

Airports Capacity

- 3.4 Part of the case for the Proposed Development is continued and unrestrained growth and demand forecasts issued by the DfT in 2017. This premise needs to be full tested. Even on its own terms, the assumptions as to capacity at other airports within the south east will need to be updated to reflect the latest published master plans for Gatwick and London City Airport. Whilst we accept that this capacity is not presently consented, the potential delivery and timing of these proposals will have implications for the passenger allocation model used to estimate Luton's share of the market within Luton's catchment area. It will then be possible to properly assess whether the need case is robust or whether the cumulative result of all of the planned growth in the south east will be over supply.
- 3.5 In essence, it will be necessary to sensitivity test capacity scenarios and consider how these influence the assessment of effects within the Environmental Statement. Such sensitivity testing could materially alter the findings from the PEIR. As per our comments on consultation above, this will require further engagement across all topics, potentially on a statutory basis with all stakeholders.

Sub-regional and local planning context

- 3.6 Topic chapters of the PEIR vary in the extent to which they comprehensively set out EU Directives, national and local planning policy. It is clearly essential that the Environmental Statement thoroughly identifies all relevant policy and how this is relevant to the assessment process.
- 3.7 We assume that in due course an umbrella 'Planning Policy Compliance Statement' or similar will be prepared and submitted with the application to

assess in one document the overall compliance or conflict with all aspects of planning policy. As well as the NPS, LLAL should demonstrate the role played by the National Planning Policy Framework and the applicable development plans in the design development of the proposals. Although not explicitly referred to in section 104 of the PA2008, they are documents that are likely to be considered 'important and relevant' to the Secretary of State's decision under section 104(2)(d) of the PA2008.

- 3.8 Moreover, the proposed expansion at Luton Airport is outside of any statutory plan-making process. The scale of the proposal is such that it will clearly have fundamental consequences for *future* plan-making for the host authorities.
- 3.9 On the one hand, we are keen to ensure that the economic benefits for the sub-region are maximised. The Outline Employment and Training Strategy is clearly at an early stage and it will be fundamental to ensure that if the Proposed Development does proceed, the construction and operational phases support local access to employment both by education and training and by infrastructure that supports ease of transport to the direct, indirect and induced employment that will result. It is also important to ensure that supply chain opportunities are maximised, particularly for small and medium sized business in the locality. We consider that LLAL should look to good practice at other airports – in particular the Heathrow Economic Development Framework³ and the Stansted Employment and Skills Academy⁴ – that set out proactive strategies that could be included at Luton.
- 3.10 However, the proposed development is of a scale that is likely to result in demographic consequences and increased pressure on housing and community infrastructure. We note that the impact on housing, in particular, is not considered in the PEIR and will be considered in the Environmental Statement. Pressure on housing, particularly in respect of affordability, may lead to increased future housing requirements that will be for the local authorities to address in their Local Plans subsequent to any DCO being made. In preparing the ES, it is important that LLAL engage with the plan-

³ [REDACTED]
[REDACTED]
[REDACTED]

making functions of the host authorities in order to fully explore this issue.

Planning policy compliance – including Green Belt

- 3.11 With specific reference to intrusion of the development into the Green Belt, the options analysis makes reference in a number of places as to how alternative development layouts were considered, with Green Belt policy being one of a number of factors taken into consideration as part of the optioneering.
- 3.12 We consider that it will be necessary to demonstrate in detail that the Proposed Development minimises all impacts on the Green Belt both in principle and in practice, considering the openness and permanence of the Green Belt and the five purposes of the Green Belt set out in paragraph 134 of the National Planning Policy Framework. This will need to assess both direct impacts and the visual amenity of the Green Belt by impacts effecting its setting. How the Green Belt has played a role in the detailed scheme development is fundamental to this understanding.

4.0 CROSS TOPIC ISSUES

Construction impacts

- 4.1 Given the scale and duration of the construction, considerably more detail is required as to the construction process itself, including a more detailed explanation of the construction activities allied to the phasing of the development. Information about construction is presently limited and as such the assessment of effects at each phase of the Proposed Development and the effectiveness of mitigation during construction cannot at present be properly considered.
- 4.2 Clearly, construction activities to deliver later phases will be taking place in parallel with operation of earlier phases. It is unclear whether or how temporally overlapping construction and operational effects have been or will be assessed. We are particularly concerned to ensure a full assessment of noise and vibration during the construction phase which at present is not included in the PEIR.

- 4.3 It will clearly be necessary to have a comprehensive suite of documents to control the construction process either within one comprehensive Code of Construction Practice or as separate documents dealing with environmental mitigation and construction traffic management. These documents will be fundamental to the successful mitigation of construction effects across all environmental topics. We consider that agreement to these documents at an early stage is essential in order to provide certainty in the delivery of construction stage mitigation and would envisage that wherever possible they should be certified documents within the Development Consent Order rather than being subject to future approvals. They should include detailed monitoring regimes and a clear understanding of how construction activities will be modified if environmental objectives are breached.

Future Baseline(s)

- 4.4 WSP highlight in their technical review that the Do-Nothing alternative was discounted from LLAL's sifting process on the basis that it does not deliver LLAL's strategic economic objectives. It is, however, considered necessary to assess the Do-Nothing scenario to inform the future baseline scenario as required by Schedule 4 of the Infrastructure Planning EIA Regulations 2017. The future baseline with no development taking place needs to be clearly established and consistently applied across all topics.
- 4.5 Indeed, it is fundamental to the communities around the airport (and hence the host authorities) to understand assumptions as to changes outside of the scheme itself that may change the future baseline (for example the change in the aircraft fleet or fleet of road vehicles accessing the airport). There needs to be clear 'with' and 'without' development scenarios as the phasing of the scheme progresses.
- 4.6 Indeed, the phased nature of the Proposed Development is such that a number of future baselines need to be established. At present, there is a lack of clarity as well as inconsistency as to assessment years within the PEIR. Future baseline assessment years need to be established within the ES and used on a consistent basis across all topics.

Monitoring and environmentally managed growth

- 4.7 At present, there is a lack of detail across all topics as to future monitoring and environmental management allied to a comprehensive Mitigation Route Map. This is a key area of concern as enforcing compliance with the DCO will fall to the host authorities. We consider that a comprehensive approach to Environmentally Managed Growth is essential.
- 4.8 WSP recommend a separate section in the ES on monitoring to make it clear what monitoring is to be carried out during construction and operational phases. This should set out monitoring methods and potential additional adaptive measures that could be implemented to ensure predicted effects are not exceeded and assumed targets with mitigation are achieved.
- 4.9 We consider that the DCO itself will need to include control mechanisms that provide safeguards for affected communities in a manner which gives confidence that mitigation to address the assessed effects will be delivered as the Proposed Development is constructed in phases and which introduces conditionality – growth only proceeds to next phase in the event that certain prescribed limits/targets are met. Adaptive monitoring and management processes should be set out, based on a robust assessment of the range of potential effects of the Proposed Development (including sensitivity testing), taking account of the possible need for consequential or corrective mitigation and how these will be delivered if required. We will need to agree a compliance assessment process, designed to monitor and manage implementation in consultation with local communities. Together with a comprehensive monitoring framework, this will provide transparency as to how the effects of the Proposed Development will be controlled within the worst case assumptions of the ES. A framework for adaptive changes will be needed in order to implement an Environmentally Managed Growth strategy which should allow for operational controls or alternative and additional mitigation. The monitoring of outcomes versus predictions/assumptions (for example the modal shift assumptions contained in the surface access strategy) can then be considered alongside this package of adaptive mitigation measures, allowing clarity over the control of unforeseen local impacts.

- 4.10 The auditing and approvals process will inevitably be administered by the host authorities and the DCO should provide for the necessary resources to ensure it is effective.

Health

- 4.11 As set out in our response to the Scoping Report, we remain of the view that the in-combination effects of the Proposed Development across topics (particularly noise and air quality) on local communities need to be comprehensively assessed in a separate Health Impact Assessment (HIA). As well as considering receptors generally across the affected areas, specific vulnerable groups (children, pregnant women, elderly people, malnourished people, and people who are ill or immunocompromised) within the population, who might experience disproportionate effects, have not presently been identified. This is a fundamental principle of Health Impact Assessment (HIA) and needs to be considered in detail.

Compensation and 'FIRST'

FIRST Scheme

- 4.12 Clarity over the operation of the 'FIRST' compensation scheme is essential. We have had no meaningful engagement on this proposed compensation fund. As set out in the WSP assessment, the key issues are :-
- Clarification of and justification for geographical coverage including confirmation that it would apply to LBC as well as the other host authorities as 'neighbours' to the airport
 - How the figure of £1 for every passenger over 18 mppa has been arrived at; whether it is proportionate compensation for the harm caused by the Proposed Development and whether it should be extended to allow for unforeseen impacts identified through monitoring; in our submission, defining a compensation figure at this time when the full extent of impacts has not been fully assessed is premature;
 - Type of schemes that are being considered – i.e. whether this would fund

highway schemes if monitoring indicated further improvements were necessary – and how they would be delivered;

- Management of the scheme.

4.13 We consider that the FIRST scheme might reasonably be expanded to play a role in the Environmentally Managed Growth approach outlined above, as part of the an Unforeseen Local Impacts Mitigation Strategy, cover a range of topics including *inter alia* air quality, landscape, biodiversity, surface access and carbon emissions, providing a resource to deliver additional mitigation particularly where monitoring demonstrates that the environmental effects assumed within the ES are being exceeded.

4.14 A range of initiatives might fall into this scheme such as additional public transport initiatives, landscape payments or proposals engaging with surrounding landowners to fund additional planting as landscape or climate change compensation and quality of life initiatives targeted at vulnerable groups identified through the Health Impact Assessment.

4.15 We would want to ensure that each authority has oversight as to how such funding is spent in their particular administrative area.

Relationship to Wigmore Valley Park

4.16 Within the context of community based mitigation, further clarity is required as to the future management of Wigmore Valley Park including the nature of that management and how long it would continue. LLAL need to be able to demonstrate that safeguards are in place to ensure the successful future management of the extended park delivers on the mitigation it is designed to address (including recreational impact and biodiversity enhancement). It is also unclear whether or when this park will be handed over to the host LPA. It is noted that the preparatory works to create the Wigmore Park extension could be subject to an advanced planning permission but this approach has not been discussed or agreed.

Noise insulation scheme

- 4.17 We also consider that further detailed discussion will be required in respect of the proposed noise insulation scheme, particularly in respect of night time noise, when the insulation would be made available and the type of noise insulation measures that will be offered. In addition, we consider that the threshold for full noise insulation should be reduced from 63dB LAeq, 16hr to 60d LAeq, 16hr in accordance with emerging Government Policy in Aviation 2050. We also consider that the noise compensation scheme should be made available during construction, particularly given the length of the phased development.

5.0 TOPIC SPECIFIC ISSUES

- 5.1 WSP have undertaken a topic by topic assessment of the PEIR and their comments will provide the basis for further engagement. We do not repeat these in detail here but raise specific concerns on (i) surface access, given this has significant cross-topic implications and (ii) Noise, given the particular concerns of the host authorities on the assessment of this topic to date.

Surface Access

- 5.2 The PEIR suggests a significant increase in public transport mode share from a baseline 31% of 15.6 mmpa to 45% of 32 mmpa by bus and rail passenger transport. The assumptions to justify this mode need to be fully explained and understood in order to fully evidence that it is achievable. At present, the extent of additional public transport infrastructure beyond that already planned is limited and more detail will be required on a comprehensive Green Travel Plan which demonstrates how passengers and employees are going to access the airport by public transport. LLAL should be looking to best practice such as the Stansted Airport Discount Scheme on public transport (Stansted Commuter), as an example of a project to assist with sustainable transport and also encourage lower paid workers to take advantage of the employment opportunities at the airport.
- 5.3 In any event, we consider this mode share to be a 'best case' rather than a

'worst case' scenario. Given the relatively limited highway interventions proposed, this figure needs to be fully justified and sensitivity tested. As set out in our response to the Scoping Report, we consider that all the various modelling scenarios need to have a sensitivity test run with public transport uptake set at its current level in order to ensure the assessment of the worst case scenario. This will clearly have implications for *inter alia* noise, air quality and health effects. It is essential that sufficient time is allowed to ensure the highways authorities agree the modelling assumptions and outputs well before the application is lodged with the Secretary of State.

- 5.4 Sensitivity testing should allow for a comprehensive assessment of further highways interventions that may be needed; these may usefully be embraced in the Environmentally Managed Growth strategy identified above. The potential need for and deliverability of additional mitigation must be scrutinised in detail including the funding arrangement should the need for further improvements arise.
- 5.5 We consider that further clarity is required as to the relationship between surface access modelling and car parking provision. We remain concerned that provision by private operators may undermine the strategy for a relative reduction in parking provision per mppa, and could further have localised impacts within those communities where this off-site parking provision occurs.
- 5.6 We also have a specific concern regarding the apparent assumption that the highway works proposed within the East Luton Study will be implemented and will form part of the future baseline. This is not the case as not all of the highway works have been funded. This needs to be discussed in detail with LBC but in essence, any schemes on which LLAL place reliance that are not funded should be within the DCO Order Limits and assessed as part of the ES.

Noise

- 5.7 We accept that there has been initial discussion through the Noise Working Group and the Noise Envelope Design Group (NEDG) but we remain concerned by the assessment of this topic to date. We consider that this is a

key environmental issue in terms of the acceptability of the Proposed Development and believe that significant further engagement, monitoring, (including attended monitoring and assessments) will be required.

5.8 We note that the noise baseline is set for 2017 and the air noise assessment fails to fully take account of existing noise controls; night time noise levels were breached in 2017, 2018 and 2019, with daytime noise levels breached in 2019 as well. The noise model is insufficiently accurate to identify the future benefits of new generation lower noise aircraft or the implications of the extent of fleet change not materialising as expected. This emphasises our general point above regarding clarity as to future baselines. Overall, the conclusions of the noise assessment in the PEIR are not robustly supported by the analysis. No monitoring regime is articulated and this needs to be considered within the context of the wider Environmental Managed Growth agenda discussed above.

5.9 Moreover, we question why consideration has not been given to the possibility of a night-flight ban. The ANPS includes an expectation by government that there will be a ban on scheduled flights within a 6.5h period between 23h00 and 07h00⁵ and this is already being considered within the environmental assessment of the expansion plans of London Heathrow Airport. This would represent a significant benefit to local communities within the context of the substantial growth being planned by LLAL.

⁵ Airport National Policy Statement, June 2018, paras. 3.54, 5.62.

APPENDIX 4

VINCENT+GORBING

Planning Act 2008 (as amended)

**Application by London Rising (LR) for an Order granting Development Consent
for the
Expansion of London Luton Airport**

PINS Reference: TR020001

Response to Second Statutory Consultation on behalf of the Host Authorities

**Hertfordshire County Council, North Hertfordshire District Council,
Central Bedfordshire Council and Luton Borough Council**

4 April 2022



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Application by London Rising (LR) for an Order granting Development Consent for the Expansion of London Luton Airport

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4 April 2022

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1.0 INTRODUCTION

Context

- 1.1 This document provides a collective response by the Host Authorities (“HAs”) to the second Statutory Consultation by London Rising (“LR” - the trading name of London Luton Airport Limited) in respect of their project entitled “*Future LuToN: Making best use of our runway*” (the ‘Proposed Development’). Responses were made to the first Statutory Consultation in December 2019 by the HAs both collectively and individually. The HAs welcome this second statutory opportunity to comment on the emerging proposals and the documentation prepared by LR. Overall, we consider significant progress has been made in the breadth, clarity and quality of the published material and we look forward to working further with LR as matters progress towards an application.
- 1.2 LR propose to increase the capacity of London Luton Airport from the current consented capacity of 18 million passengers per annum (mppa) to 32 mppa and propose to apply for a DCO under the Planning Act 2008 (PA2008) as the Proposed Development is a nationally significant infrastructure project under Section 23 of that Act.
- 1.3 It is noted and recognised that on 1 December 2021, the local planning authority (Luton Borough Council) resolved to grant permission for the current airport operator (LLAOL) to grow the airport up to 19 mppa, from its previous permitted cap of 18 mppa. Since then, the Secretary of State for Levelling up, Housing and Communities has issued a “holding direction” which prevents Luton Borough Council from issuing a final decision while the Secretary of State considers whether he should call-in and decide the 19 mppa planning application. It would be helpful if the position with this application is resolved prior to the submission of the application for development consent for the Proposed Development to give greater certainty as to the baseline (albeit it is noted that LR have generally taken the 18 mppa as the baseline at this stage, which we support).
- 1.4 The Proposed Development includes a number of elements including *inter*

alia an extended airfield platform, a new terminal, additional taxiways and aprons, additional parking, various airside and landside facilities, changes to surface access, surface water management, landscaping and replacement open space.

1.5 This response has been prepared by Vincent and Gorbing (V+G) and represents the collective response of:-

- Hertfordshire County Council (“HCC”)
- North Hertfordshire District Council (“NHDC”)
- Central Bedfordshire Council (“CBC”); and
- Luton Borough Council (“LBC”)

1.6 Local authorities are identified as consultation bodies under the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 as each local authority that is defined within s43 of the PA2008.

1.7 Each of the above authorities fall into the s43 definition and each is in their own right a ‘host authority’ for the purposes of the Proposed Development as some part of the land within their municipal area falls within the draft Development Order Boundary.

The WSP Technical Review

1.8 As well as this document, the HAs are submitting a technical assessment of the Statutory Consultation documentation. This analysis has been prepared by environmental and engineering specialists at WSP (with input on noise from Suono) and provides a detailed review of the content of the documentation. It has been the subject of consultation with various specialist officers within the HAs and therefore can be taken as reflecting the views of all four of the authorities though the HAs may make further individual technical responses in addition to the WSP report. It follows a similar exercise to that carried out in 2019 as part of the response to the first Statutory Consultation. It will form the basis for further engagement with LR as the process moves forward towards an application.

1.9 It is not the intention here to repeat in detail or summarise the detailed technical assessment work that has been undertaken by WSP. Their review does not identify any fundamental flaws in the consultation documents but does raise numerous detailed points that should be addressed as LR prepare their Environment Statement. There are also some repeated themes across many of the topics that we comment on further in this document as concerns of the HAs.

1.10 In this context, the intention of this document is to emphasise some broad strategic matters that are particular issues of concern to the HAs. Equal weight should be given, however, to the detailed technical assessment of WSP and the submitted documentation should be read as a whole.

Joint response and individual responses

1.11 In providing a single joint response in the form of the WSP report and this document, the HAs emphasise the value of engagement wherever possible on a joint and co-ordinated basis throughout the DCO process. That said, the overall position of the authorities on the Proposed Development remains a matter for each authority and this document does not preclude individual authorities from expressing their views on the Statutory Consultation material as well as the overall case for or acceptability of the Proposed Development. However, the views expressed in this document are shared by all four authorities and for clarity the word 'we' in this document refers to those authorities.

Content of this document

- 1.12 This document makes comments on the following strategic issues:-
- Overall acceptability of the consultation material at this stage of the process (section 2.0);
 - Policy considerations and the need for the Proposed Development (section 3.0)
 - Cross topic issues concerning mitigation, management and monitoring, particularly in respect of the proposals for 'Green Controlled Growth'

("GCG") (section 4.0);

- Particular issues regarding certain environmental topics (section 5.0).

2.0 COMMENTS ON THE CONSULTATION MATERIAL AND ENGAGEMENT

2.1 We recognise that there have been on-going discussions between LR and the HAs since the first Statutory Consultation and this has been welcomed. Whilst in some topic areas this has been more information sharing rather than interactive engagement, we particularly welcome the discussions on Green Controlled Growth (GCG) and the work of the Noise Envelope Design Group (NEDG).

2.2 As LR are fully aware, Statutory Consultation is an important stage in the DCO process and a crucial opportunity to properly explain the proposals, the evidence collected to date on the baseline, the likely environmental impacts and proposals for mitigation, compensation and monitoring. At the time of the first Statutory Consultation, we raised concerns as to the lack of detail in some areas of the assessment, the lack of published evidence base to support the assessments made to date and the need for significant further engagement. We also highlighted that the PEIR lacked transparency across a number of topics in relation to data inputs, assumptions and assessments. Moreover, it was considered that the description of the Proposed Development in the PEIR at that time lacked clarity as to the phasing of the scheme, especially given the overall length of the construction period and the interaction of environmental effects at different stages of development. We specifically suggested that a second Statutory Consultation would be necessary and therefore this current consultation is welcomed.

2.3 Generally speaking, we consider that the quality and clarity of the material presented at this second Statutory Consultation is much improved and the description of the development parameters (including the Worst Case Scenario) and the phasing of the development is now generally much clearer and understandable. We consider that the works descriptions are considerably more developed although LR will need to justify that the flexibility proposed in relation to the Worst Case Scenario is no more than absolutely

necessary.

- 2.4 However, whilst we consider that progress is being made as to the drafting of the application, there are still areas of concern and a lack of clarity around certain aspects of the proposals and associated environmental impact assessment work. There are some topics where there is still more information to be provided and further discussion would be needed and welcomed prior to the application being submitted including *inter alia*, noise, surface access, and landscape and visual assessment, as well as discussion around the various control, mitigation and compensation documents. .
- 2.5 WSP's review has identified that there is still a lack of clarity around the future baseline and an incomplete assessment in some topics of the cumulative effects of development. It is accepted that the PEIR is *not* the final Environment Statement and LR still clearly have technical work to complete prior to the submission of the application. It is essential that proper analysis of the technical and environmental issues is allowed for prior to the submission of the application and we consider that further engagement on key aspects such as noise, surface access, landscape, Green Controlled Growth and the Employment Training Strategy in particular should continue in the coming months. Detailed discussions regarding the drafting of the Development Consent Order itself, including mitigation and compensation proposals and protective provisions for the HAs also needs to take place prior to the application being made.
- 2.6 Overall, we consider that this consultation provides a significant step forward. In preparing this response we have sought to be constructive and reasonable and to establish a further platform from which to focus our ongoing engagement in the period up to submission and beyond. Whilst outside the scope of this consultation, we would wish to discuss further the PPA funding arrangements to ensure that the HAs are sufficiently resourced in this regard.

3.0 POLICY CONSIDERATIONS AND THE NEED FOR THE SCHEME

National policy

3.1 It is accepted that at the present time there is government policy support for the principle of airports making best use of their runways, as set out by the government in Making Best Use of Existing Runways (June 2018) (“MBU policy”) alongside the proposals for a new runway at Heathrow set out in the Airports National Policy Statement (ANPS). The Government confirmed this in the July 2021 Jet Zero consultation, although it is emphasised that Jet Zero was just that - a consultation - not a development of national policy. The content of the Jet Zero policy that is set to be published in July 2022 will be a relevant consideration in the determination of the acceptability of the proposals.

3.2 The Inspectors in the recent Bristol Airport appeal decision considered the weight to be accorded MBU¹ as some parties to that appeal had argued that it should be afforded limited or no weight as it pre-dates the Government’s adoption of the 2050 net-zero target and the Sixth Carbon Budget in June 2021, and was published before the inclusion of international aviation in domestic targets. The Inspectors concluded that

“Certainly, these are material considerations, and are issues which may or may not change the policy approach in the future. But MBU itself recognises there is uncertainty over climate change policy and over international measures, and notes that therefore matters might change after its publication.” (our underlining)

3.3 The Inspectors concluded further that :-

“While there are many who may disagree with the direction of current Government aviation policy and specifically the approach set out in MBU, it is not the role of the Panel to question the merits or otherwise of current Government policy. APF and MBU therefore remain the most recent national policy statements and as such are material considerations. Though matters

¹ Appeal Decision APP/D0121/W/20/3259234 dated 7 February 2022

have to an extent moved on this does not make policy out of date." (our underlining)

3.4 It is therefore accepted that at the present time there is national policy support for the principle of making the best use of the existing runway at Luton. However, this is clearly only one factor in the overall planning balance, with local planning and transportation policy documents likely to be considered 'important and relevant' to the Secretary of State's decision under section 104(2)(d) of the PA2008. We comment further below on this matter. Moreover, MBU policy itself recognises that the development of airports can have negative as well as positive local impacts, including on noise levels and that *"any proposals should be judged by the relevant planning authority [or in this case, the Panel and SoS], taking careful account of all relevant considerations, particularly economic and environmental impacts and proposed mitigations."*

3.5 We also accept that at the present time there is no apparent Government appetite for demand management in the aviation sector to be part of the toolkit to achieve net zero by 2050, with the draft Jet Zero consultation instead focussing on, system efficiencies, Sustainable Aviation Fuels, zero emission flight, markets and removals and influencing consumers. This is clearly a national political as well as policy issue. However, the Climate Change Committee's Report of October 2021 on the Government's Net Zero strategy criticised this, commenting that:-

*"There is less emphasis [in the UK's Net Zero Strategy] on consumer behaviour change than in the Committee's scenarios. The Government does not address the role of... limiting the growth of aviation demand in reducing emissions, while policies to reduce or reverse traffic growth are underdeveloped. These options must be explored further to minimise delivery risks from an increased reliance on technology and to unlock wider co-benefits for improved health, reduced congestion and increased well-being."*²

3.6 In short, the exact position with national aviation policy, the weight accorded

² Climate Change Committee's Report of October 2021 on the Government's Net Zero strategy, Page 4

MBU and potential future changes to this policy context in the context of net zero will need to be reviewed further as the application progresses to submission, Examination and a final decision. We reserve the right to reconsider this policy position, weighed in the balance with local planning and transportation policy and environment effects of the development as against the economic benefits. As we stated previously, we consider that at the very least LR need to recognise and consider how to deal with the uncertainties in respect of future policy and how this could affect the overall need case in the long term.

- 3.7 Moreover, the strategic economic case for the development will also need to be reviewed, along with further interrogation of the scale of the alleged economic benefits resulting from the proposal were consent to be forthcoming.

Local planning context

- 3.8 Compared to the first Statutory Consultation, topic chapters of the PEIR now more comprehensively set out EU Directives, national and local planning policy. There are still certain omissions, however, and this point should be thoroughly reviewed and must include emerging Local Plans, particularly as these will be relevant to the future baseline. It is clearly essential that the Environmental Statement thoroughly identifies all relevant policy and how this is relevant to the assessment process.
- 3.9 As we stated at first Statutory Consultation we had hoped LR would prepare an umbrella 'Planning Policy Compliance Statement' or similar to assess in one document the overall compliance or conflict with all aspects of planning policy. As well as the NPS, LR need to demonstrate the role played by the National Planning Policy Framework and the applicable development plans in the design development of the proposals as 'important and relevant' to the Secretary of State's decision under section 104(2)(d) of the PA2008 given that the proposed expansion at Luton Airport is outside of any statutory plan-making process.
- 3.10 LR have responded in their 2019 Statutory Consultation Feedback Report by stating that a 'Planning Statement' will be prepared and submitted with the

application. Whilst this is welcomed we assume this will go beyond a policy compliance assessment and look at the overall planning balance given the benefits and environmental effects of the development. We remain of the view that a specific planning policy compliance document is necessary and should be prepared and agreed between LR and the HAs that identifies relevant policy and where the parties consider the Proposed Development to be in accordance with or contrary to this policy, taking into account proposed mitigation. We consider that this should be agreed prior to submission/examination as part of the SoCG process.

- 3.11 As part of this analysis, clarity should be provided as to how Green Belt policy has been factored into the optioneering of the scheme. LR need to demonstrate in detail that the Proposed Development minimises all impacts on the Green Belt both in principle and in practice, considering the openness and permanence of the Green Belt and the five purposes of the Green Belt set out in paragraph 138 of the National Planning Policy Framework. This will need to assess both direct impacts and the visual amenity of the Green Belt by impacts effecting its setting. How the Green Belt has played a role in the detailed scheme development is fundamental to this understanding.

4.0 CROSS TOPIC ISSUES

Overall approach to mitigation and control documents

- 4.1 The extent of mitigation proposed is significant and varied, relying on embedded mitigation and design, control mechanisms (various action and management plans and their associated governance arrangements), compensation proposals and on-going monitoring now included within the Green Controlled Growth strategy and other documents including the Travel Plan.
- 4.2 The material prepared for this Statutory Consultation now suggests increased complexity in this regard, with layers of proposed mitigation being 'nested' within proposed control documents, making them less obvious. LR have confirmed that a Mitigation Route Map will be prepared. This will be essential to clarify how mitigation will be achieved and we consider it would have been

helpful to see this document at this stage, given that the mitigation strategy is now much more developed compared to first Statutory Consultation. We would request that this document is prepared in draft and be the subject of informal engagement with the HAs prior to the application being submitted. This will assist our assessment of the application and the preparation of Local Impact Reports (LIRs).

- 4.3 We would also want further clarity prior to the application being submitted as to which documents are proposed to be 'certified' at the point of the DCO being made and which will be the subject of subsequent engagement and approval through Requirements within the DCO.
- 4.4 Despite the extent of mitigation and the GCG proposal, we remain of the opinion that Unidentified Local Impacts (ULIs) need to be considered and a mechanism and funding to mitigate these be put in place.
- 4.5 Indeed, we remain concerned as to the health impacts of increased exposure of urban populations around the airport to increasing particulate matter and harmful levels of other pollutants. In our view, the modelling may not capture all effects that occur in the future, especially from particulate pollution. A detailed monitoring programme as part of the GCG or separately should be put in place to consider health impacts before development and at each phase, with funding to address measures to address any impacts beyond those presently forecast.
- 4.6 A separate fund with a specific remit to address ULIs would give the HAs confidence that outside of GCG and Community First Funding is in place to address issues that arise that are not forecast at the present time.

Green Controlled Growth (GCG)

- 4.7 We very much welcome, in principle, the GCG proposals and consider this to be a significant step forward in reassuring the communities around the airport that LR and the airport operator will deliver on mitigation and that this can be adaptive to account for changes in external variables compared to what has been assumed through the environmental impact assessment work. It is noted that this is a draft document and that it will be developed further as

progress is made towards the application being submitted and that it will be subject to subsequent engagement beyond this Statutory Consultation stage. We would very much welcome this further engagement to the extent that a refined GCG will be prepared and submitted with a large measure of agreement between the HAs and LR without prejudice to the position each authority will take on the acceptability of the Proposed Development overall.

4.8 As with other documents referred to above, it will be important to understand how the GCG proposals are secured through the DCO, to what extent the mechanisms suggested are on the 'face' of the DCO itself or within a certified GCG document that will be approved and be subject to review in the future. The document notes that the DCO will define the necessary procedures relating to the governance of GCG, creating a legal framework for compliance and enforcement. The detail of this will be crucial to the role that GCG will play in the future.

4.9 It is noted that it is suggested (para. 3.5.16) that the Airport Operator would have a right to appeal to the Secretary of State over decisions by the ESG, for example the failure to approve a Level 2 Plan or Mitigation Plan, or where it is felt that an event beyond the Airport Operator's control has resulted in an impact above a Limit but this has not been accepted by the Environmental Scrutiny Group (ESG). We would wish to understand the process in more detail and how it will be secured through the DCO.

4.10 As noted above, we would want to engage further on the approach to GCG prior to the application being submitted. In particular, we would wish to discuss in further detail matters such as :-

- The proposed limits, how they are set and reviewed;
- How the analysis feeding into the compliance assessment will, where appropriate, be distinguished from baseline changes (for example in air quality or noise);
- The governance structure and in particular the role of the HAs and the local community. The composition of the ESG needs further discussion including how it can be independently chaired;

- The enforcement process. The suggested structure where breaches are reported to Luton Council who are both the local planning authority and the owners of the airport may be perceived by some as a conflict of interest and there may be a role for an external body; as suggested by WSP this could be the recently formed Office of Environment Protection.
- How any changes will be legally enforced on airlines to achieve compliance.

4.11 Importantly, we will want to understand how the GCG process is going to be resourced for the long term. Para. 3.3.11 states that it is expected that the ongoing reasonable costs of the ESG, *“including meetings, monitoring, and funding of necessary technical support to the Technical Panels would be funded by the Airport Operator.”* The ESG and Technical Panels will need significant funding and expertise, staff resource at the HAs and external consultancy support over a significant number of years. We will need more detail on this funding regime to ensure that the HAs can play a full part in the governance and technical monitoring process.

4.12 We also have some concern that the approach to limiting GHG emissions allows (in respect of Scope 3 emissions, from surface transport for example) for the airport operator to adopt offsetting arrangements. Whilst accepting that changes in factors such as the take-up of electric vehicles more widely is outside of the control of the airport operator, there is much that the operator *can* do to encourage the reduction of Scope 3 emissions and to allow offsetting will not encourage such action. We would wish to explore this point further with LR as we consider that there remains a lack of commitment to addressing emissions from surface access and encouraging sustainable modes of access to the airport. .

4.13 It is noted that at the present time the Draft GCG document does not include a proposed target for sustainable travel mode share for staff but indicates that this will be somewhere in the range between 23% to 31% in Phase 1. This reflects the proportions using sustainable transport options in 2016 and 2018 respectively. We consider that LR should show greater ambition, with a goal of ensuring that modal shift to non-car modes allows the number of staff

working at the airport to increase as forecast whilst resulting in no net increase in traffic generation, taking into account changes in background traffic levels. We would welcome further discussions on this target. .

Employment and Training Strategy

- 4.14 We welcome the proposed Draft Employment and Training Strategy (ETS). This will clearly be important to ensure that the economic benefits of the Proposed Development, on which the case for approval squarely relies, are actually delivered. We consider that further discussions with the HAs are needed on this document, linking it to and aligning it with economic development strategies in the area. In their own assessment, WSP conclude that in its current form, the document contains limited details relating to the commitments, monitoring and governance processes that would be adopted by the ETS to maximise benefits arising from the Proposed Development. We would expect significant further engagement on this document.
- 4.15 At the present time, the role of local authorities in the ETS is unclear and needs to be discussed further. Indeed, the ETS relies on significant partnership working across a wide range of stakeholders, playing in large part a facilitation role rather than seeking to directly provide new opportunities for training. The strategy places considerable emphasis on working across various existing institutions, although the HAs' economic development function appears limited to consultation through the Local Economic Development Working Group to align growth strategies with local government partners and share good practice.
- 4.16 The ETS suggests 'direct' provision of a 'Luton Lifelong Training Centre' but it is unclear to what degree this is a commitment. The ETS states (para. 4.2.9) that *"The provision of physical on-site training facilities (where possible) would be explored by the SLP [Skills Leadership Panel] and the operator to enable education and training institutions to provide training at the airport alongside airport employers."*
- 4.17 In our view the ETS could do more to ensure a positive and pro-active approach such that the airport operator and other airport employers provide direct training opportunities rather than simply relying on existing institutions.

We consider the 'Luton Lifelong Training Centre' should be seen as an essential element in the ETS that LR should commit to; as per our comments at first Statutory Consultation, LR should consider the approach of the Stansted Airport Employment and Skills Academy which is under London Stansted Airport's direct management and delivered in partnership with Harlow College. This initiative could link directly to subsidised sustainable travel initiatives to widen access to the airport for those seeking work as part of the approach to reducing reliance on the private car, particularly in the current era of significantly rising fuel prices, with both social and environmental benefits.

- 4.18 Monitoring of the success of the ETS is left for future detail. It is clearly important that a monitoring framework is established with Key Performance Indicators (KPIs) to transparently demonstrate whether the ETS is being successful and whether the forecast benefits of the development are being delivered, including the home location of those taking up new employment at the airport to demonstrate that the socio economic benefits are being realised as forecast in the socio-economic assessment of the Proposed Development. To monitor progress and results of the committed initiatives, the ETS should include a regular monitoring process – twice yearly or yearly - as part of the governance process.

Current and Future Baseline(s)

- 4.19 WSP highlight in their technical review that there is still a lack of clarity in certain topic areas as to the "Do-Nothing" option to inform the future baseline scenario as required by Schedule 4 of the Infrastructure Planning EIA Regulations 2017. The future baseline with no development taking place needs to be clearly established and consistently applied across all topics.
- 4.20 Indeed, it is fundamental to the communities around the airport (and hence the HAs) to understand assumptions as to changes outside of the scheme itself that may alter the future baseline (for example the change in the aircraft fleet or fleet of road vehicles accessing the airport and the implications on air quality and noise). There needs to be clear 'with' and 'without' development scenarios as the phasing of the scheme progresses. In particular, the 'do

nothing' scenario needs to be fully transparent as to flight numbers and fleet make-up and be clear that this is based on compliance with current planning conditions rather than pre-pandemic breaches of these conditions.

- 4.21 WSP have raised deficiencies in the transparency/definition of the future baseline in a number of other topics including economic impact, health, biodiversity and cultural heritage.

Reflecting engagement within the ES

- 4.22 The ES topic chapters vary in their commentary on engagement with stakeholders and the outcomes of that engagement. Where discussions have been held with the HAs, we would request that the outcomes of those discussions are identified in each topic chapter in the Environmental Statement. Whilst the Consultation Report will also provide such an analysis the ES should reflect on any changes in the Proposed Development itself, the EIA methodology, or assessment outcomes that have resulted from engagement.

Compensation Policies and Measures

Community First

- 4.23 We consider that the proposed compensation policies and the 'Community First' proposals should be clearly separated as two different and unrelated initiatives. LR make clear in their Consultation Report that the Community First scheme is *not* mitigation.

"Community First is not intended to mitigate impacts – that is the role of mitigation identified and secured through the Environmental Statement that will be submitted with the application for development consent. The purpose of Community First is to make funds available to community groups and Town and Parish Councils to address local needs in areas of high deprivation or for decarbonisation projects." (Response to 5.1.10)

- 4.24 However, contradicting this statement, the Community First fund is identified within the PEIR as mitigation, for example in Chapter 13 (Health), the fund is specifically identified under the heading of 'Mitigation.'

“The Applicant intends to introduce a fund aimed specifically at tackling adverse effects of airport expansion not addressed by mitigation already included elsewhere in the Proposed Development. The Applicant is calling this Community First.” (para. 13.10.5)

4.25 Accordingly, it is unclear what role Community First plays in the Proposed Development and what weight, if any, it should be accorded in the overall planning balance. It is clearly ‘compensation’ of sorts but whether and how it is proportionate to some level of defined ‘harm’ caused by the Proposed Development is not stated.

4.26 The change in emphasis from earlier proposals to decarbonisation projects is on the one hand understandable, but it brings into question the extent to which community groups in particular are going to be able to define suitable schemes that meet the eligibility criteria such that the fund will successfully perform the role expected of it. Before it is finalised, LR need to engage with the HAs, parish councils and community groups (perhaps by means of workshops) to better establish how the fund would be used and what sort of projects would qualify for funding, the application and assessment process and the monitoring of the fund, to ensure that it will be successful. Once established, we would expect to see the fund fully publicised and community groups and town and parish councils given assistance to make appropriate applications to ensure that the money is actually spent.

4.27 It is also unclear what role the HAs will play in Community First as within the PEIR it appears to indicate that the funding would be directed to local authorities rather than town and parish councils and community groups – we can only assume this is incorrect as it contradicts the Community First document which at para. 10.2.2. states that the funding will be available to registered charities, community groups, and parish and town councils. In contrast the PEIR at para. 13.10.5 states:-

“The purpose of Community First is to provide a source of funds for local authorities surrounding the airport to be used in ways to enhance the distribution of the benefits of our proposals for those who live around the airport or who would be affected by its expansion.”

4.28 A number of questions, some of which were raised at first Statutory Consultation, need to be unanswered, namely :-

- How the figure of £1 for every passenger over 18 mppa has been arrived at; whether it is proportionate 'compensation' for the harm caused by the Proposed Development; also whether this figure will be indexed;
- What is the basis for the proposed 60/40 split between Luton and the other qualifying local authority areas;
- Whether it could or should be extended to allow for unforeseen impacts identified through monitoring (see below);
- Type of schemes that are being considered – i.e. whether this funding could or should fund highway schemes if monitoring indicated further improvements were necessary – and how they would be delivered;

Unidentified Local Impacts Mitigation Strategy

4.29 On the basis that LR wish to limit Community First to *only* being aimed at community based initiatives, we reiterate our view that a separate funding mechanism needs to be set up to fund an Unforeseen Local Impacts Mitigation Strategy, to include funding mechanisms covering a range of topics including *inter alia* air quality, landscape, biodiversity, surface access and carbon emissions, providing a resource to deliver additional mitigation particularly where monitoring demonstrates that the environmental, surface access and other effects or impacts assumed within the ES and application material are being exceeded or not being met or delivered with resultant substantive adverse implications. .

4.30 Such a fund could provide additional mitigation including capital and (importantly) revenue funding for the lifetime of the development to a range of wider initiatives aimed at mitigating/enhancing the overall impact of the airport in both the rural and urban areas in its vicinity by a range of initiatives.

4.31 Consideration would need to be given to how such a Strategy/fund would be linked to other initiatives aimed at addressing future uncertainty, such as the proposed Travel Plan.

Noise insulation scheme

- 4.32 The success of the noise insulation scheme will be crucial to the acceptability of the proposals to the local communities around the airport. WSP's technical analysis (and the appendix to this provided by Suono) suggests improvements to and makes comments on the scheme. We consider that further detailed discussion will be required in respect of the proposed noise insulation scheme, particularly in respect of night time noise, prior to the application being made.
- 4.33 As was commented previously during the 2019 Statutory Consultation, the proposed scheme does not contain any night-time qualifications. It is therefore questionable whether it is in line with UK good practice. The PEIR sets out that noise impacts affect more local people negatively during the night than during the day and as such there is a clear case for including such criteria. The alternative mitigation of reducing or avoiding night-flights is not discussed and is considered a reasonable alternative mitigation for assessment.
- 4.34 Whilst recognising that the noise insulation scheme goes beyond that currently operating at the airport, Suono, on behalf of the HAs, also highlight that if the revised scheme is to align fully with proposals set out in emerging government policy (Aviation 2050), there is a case for the daytime threshold for full noise insulation package to be reduced down to 60 dB LAeq,16hour from 63 dB LAeq,16hour currently proposed.
- 4.35 Moreover, as stated in the Draft Policy and Compensation Measures document, the noise insulation scheme will only begin to be implemented when airport operations reach 19 mppa. We do not see the justification for this and consider that this mitigation should be introduced at the point the DCO is made to ensure that noise insulation to affected properties is provided as soon as possible.
- 4.36 For public buildings, acoustic insulation is proposed to be offered to noise-sensitive buildings within the 63 dB LAeq,16hour contour. Suono highlight that some of these buildings could be viewed as residential, such as hospices

and nursing homes, and so any night-time qualification should also extend to such relevant public buildings.

- 4.37 Overall there needs to be a more detailed consideration of the metrics used within the PEIR and subsequent EA, to ensure that there is a consistency of approach with the metrics used within Planning Permissions, the Noise Control Scheme (existing and proposed), Noise Action Plans, and compensation policies and measures.

Relationship to Wigmore Valley Park

- 4.38 Generally, we welcome the changes to the layout of the revised Wigmore Valley Park. However, the lack of certainty over future management and funding of future management highlighted at first Statutory Consultation remains. There is a need for further clarity over the scale and duration of mitigation schemes and aftercare. LR need to be able to demonstrate that safeguards are in place to ensure the successful future management of the extended park delivers on the mitigation it is designed to address (including recreational impact and biodiversity enhancement). Whilst the proposals for a general-purpose management company / trust are welcomed, there will be a need for a long term ecological warden to ensure the delivery of biodiversity improvements. Discussions about the long-term stewardship of the public open space and landscape need to take place at the earliest opportunity, as any decisions could have a fundamental impact upon the strategic landscape masterplan and management strategies.
- 4.39 We do not believe that sufficient engagement on this matter has yet occurred and request that this is remedied prior to the application being submitted.

5.0 TOPIC SPECIFIC ISSUES

- 5.1 WSP have undertaken a topic by topic assessment of the PEIR and their comments (and those by Suono on noise appended thereto) will provide the basis for further engagement. WSP have used a scoring methodology that allows ease of identification of those topics where they consider the assessment to date is incomplete or unclear.

- 5.2 We do not repeat these in detail here but raise specific concerns on (i) Noise, given the particular concerns of the HAs on the assessment of this topic to date (ii) Health (given this is a 'new' topic in the PEIR); (iii) surface access and (iv) Landscape impacts.

Noise

- 5.3 We accept that there has been on-going discussion through the Noise Working Group and the NEDG but we remain concerned by the assessment of this topic to date. We consider that this is a key environmental issue in terms of the acceptability of the Proposed Development and believe that significant further engagement will be required.
- 5.4 We have commented above regarding the Noise Insulation Scheme and the various deficiencies identified by Suono.
- 5.5 Our wider concern is that the noise assessment concludes that a significant adverse effect will result and that this will arise in 2043 when the throughput is at 32mmpa, countering any improvements in the air noise climate that appear to occur up to 2039 as a result of fleet modernisation. Air noise levels are expected to increase in the day and night between 2039 and 2043 as no new generation aircraft are expected to come into service as the fleet is as modernised as possible by 2039. As Suono state in their analysis, this is in contradiction to two key parts of the government's ANPS 2018, where *"The benefits of future technological improvements should be shared between the applicant and its local communities, hence helping to achieve a balance between growth and noise reduction."* This is also a key noise objective made within the Aviation Policy Framework 2013 (section 3.29, bullet 2) with near identical wording.
- 5.6 In effect, the improvements in the noise climate that will otherwise be experienced by the communities around the airport, despite the expansion up to 2039, will be subsequently eroded and then lost altogether. This remains a considerable concern to the HAs and a key factor to weigh in the planning balance in the context of MBU policy.

5.7 If consent were to be granted despite this policy conflict, the Noise Insulation Scheme becomes of paramount importance and for the reasons set out above we consider it will be out of step with government policy. Moreover, as we stated at first Statutory Consultation, we question why consideration has not been given to the possibility of a night-flight ban as mitigation.

5.8 Suono raise a range of other technical issues regarding the noise assessment. It is concerning that despite the critical importance of this issue and the extent of dialogue, there are still apparent methodological and assessment issues being raised. For example, the comparison of noise levels as between 2019 and 2043 uses the 2019 baseline when the airport operator was breaching the current Condition 10 and is not therefore an appropriate comparison. Suono raise a range of other deficiencies and state that :-

“It remains the case that a considerable amount of technical work needs to be done to ensure that the ES contains an accurate and comprehensive assessment of noise effects.”

5.9 We would clearly welcome further dialogue on this topic prior to the application being made.

Health

5.10 We welcome the inclusion of Health as a discrete topic in the PEIR which deals effectively with in-combination effects of the Proposed Development across topics (particularly noise and air quality) on local communities. The conclusions of this PEIR chapter underline the concerns of the HAs as to the overall impact during construction and operation of the expanded airport on nearby local communities.

5.11 Whilst it is accepted that the positive effects of economic growth and employment will be experienced in the vicinity of the airport, the PEIR identifies significant adverse effects on health and well being as a result in particular of noise during operation. It notes that physical and mental health outcomes associated with aircraft noise include annoyance, sleep disturbance, children’s learning, mental health, and cardiovascular health. It further notes that the extent to which different groups within the community

will be affected will vary. Noise sensitive individuals, shift workers, socio-economically disadvantaged individuals, people with existing ill health, children and the elderly are particularly vulnerable to noise and may be disproportionately affected by changes in aircraft noise. As part of the development from the PEIR to the ES we would expect to see quantitative refinement of this assessment and the extent to which the additional mitigation can adequately address these health outcomes.

Surface Access

- 5.12 We consider that the surface access proposals still require further development and discussion. Whilst the mode shift targets and monitoring contained in the proposed Travel Plan/GCG proposals are welcomed, the public transport measures continue to focus primarily on public transport (DART) within Luton. Other than by rail and existing public transport, it appears no additional public transport measures are proposed for east-west travel to Luton.
- 5.13 Moreover, many of the measures are reliant on third parties such as bus operators. As WSP highlight in their review, there is significant emphasis on increased public transport services but there is no detail as to what these will entail in terms of new or enhanced bus or coach services and whether the capacity will be sufficient to accommodate predicted demand if the modal shift targets are met. It is disappointing that the extent of bus and coach service enhancement is no more defined than at the first statutory consultation. There is also uncertainty as to how maximising the number of rail services calling at Luton Parkway will be achieved.
- 5.14 We believe that LR should be more ambitious in relation to setting out how the Travel Plan is to be delivered and for providing funding for public transport improvements, particularly local bus services. LR's proposals include the potential introduction of access charges to dissuade private motor vehicle use. We consider that revenue from any such charges should be ring-fenced to sustainable transport improvements (including for cycling and walking). The HAs highlight that a charging structure for parking to dissuade employee and passenger trips to the airport will only work if the alternatives are in place

and at the present time this is not fully demonstrated by the proposals. Moreover, the highway interventions proposed do not consider how these can facilitate improved public transport.

- 5.15 In achieving real shifts to public transport as well as encouraging cycling and walking, the regular reporting and enforcing of Travel Plan targets is clearly essential and the role of the HAs and the proposed Airport Transport Forum (ATF) needs to be developed further, including how any ATF is constituted and funded.
- 5.16 A specific point raised by WSP is that the highways modelling currently assumes hard shoulder running (or Smart motorway) to be present in all future options. If the present government review comes down on the side of no further Smart motorways, a sensitivity test will be needed to demonstrate that the proposals will not cause an unacceptable impact on the Strategic Road Network.
- 5.17 Whilst specific highway interventions are identified within the Proposed Development, future monitoring of the highway network around the airport will be essential, alongside monitoring of the use of sustainable transport modes. It is indicated that proposed improvements will be delivered over the duration of the access strategy, informed by the rate of passenger growth and local monitoring. However, we consider that there remains a case for a general local highway network fund to cover additional improvements in physical highway infrastructure should future monitoring demonstrate that there is a need for such improvements. Unforeseen or unintended consequences of future growth on the highway network should not be left to the highways authorities to fund in the future. Such interventions would be considered alongside demand management and sustainable transport initiatives in the Sustainable Transport Fund with priority given to reducing highways impacts by modal shift prior to capacity interventions given the environmental benefits that would result.
- 5.18 Attention is drawn to the approach taken at Stansted Airport where the Unilateral Undertaking in relation to their 2021 planning permission to grow to 43 mppa provides for a £1million contribution to a 'Local Bus Network

Development Fund', £1million to a Local Road Network Fund and a Sustainable Transport Levy of 25p from passenger parking, all of which are managed by the Airport Transport Forum.

Landscape Impacts

- 5.19 In WSP's review of the PEIR, the quality of the assessment of landscape and visual impact is scored poorly and we would welcome further engagement on the details and overall outcomes of the assessment prior to the submission of the application. We continue to be concerned by the landscape and visual impact of the proposals, both within the vicinity of the airport and further afield.
- 5.20 The PEIR identified that there will be significant effects: several temporary adverse effects on landscape features, as well as effects on overall character of some areas. There will be permanent adverse visual effects from local footpaths, as well as on character of some areas of the landscape.
- 5.21 There is concern in respect of the intervisibility between the proposed development and surrounding area. For clarity, and to assist in the scrutiny of the Landscape and Visual Impact Assessment (LVIA), further information is needed including plans and cross sections that clearly show the relative heights of the existing and proposed built development and features in the landscape. Further details with regards to the approach to visually recessive architectural detailing and materials is also required.
- 5.22 The visibility of the development from the Chilterns AONB is also a concern. WSP highlight that identification of key receptors should be discussed further with the Chilterns Conservation Board; concerns are raised about how the AONB and those within it are addressed.
- 5.23 The ES needs to provide greater detail on how the various mitigation measures are to be secured, implemented, and maintained. A Strategic Landscape Masterplan (SLMP) is required to set out the vision, key landscape features, qualities and characteristics that inform the development of a cohesive, beautiful, multifunctional, and resilient place for people and wildlife. This should be produced in collaboration with all key stakeholders. Whilst the proposals to date focus on the delivery of mitigation, there also needs to be a

focus on placemaking and stewardship to ensure that proposed open space is successful and ultimately delivers quality over quantity. The SLMP also needs to ensure that advanced planting is clearly identified and programmed to maximise its potential as part of the wider strategy.

APPENDIX 5

Burnie, Rammiel

Subject: Appendix 5 Copy of Email Luton Rising DCO - informal consultation on draft documents
14.10.2022

Attachments: Draft DCO documents_ Comments Schedule 13 October 2022.xlsx

From: Martin Friend [REDACTED]@vincent-gorbing.co.uk>

Sent: 14 October 2022 16:30

To: [REDACTED]@arup.com

Cc: [REDACTED]@luton.gov.uk; [REDACTED]@aecom; [REDACTED]@arup.com; Paul Donovan
<[REDACTED]@hertfordshire.gov.uk>

Subject: Luton Rising DCO - informal consultation on draft documents

Good afternoon Farhana

Vincent and Gorbing were recently instructed by Herts County Council, North Herts District Council and Central Bedfordshire Council ("our clients") to review draft documents provided by Luton Rising in advance of the submission of their application for a Development Consent Order.

Please see the response of the three authorities attached in the spreadsheet provided.

As LR requested, a generally 'light touch' review has been undertaken by ourselves with input from planning officers and some LA technical specialists. No legal review has been undertaken of the draft DCO itself but it is considered that this will be necessary as we move forward.

We do not wish to make comment at this stage on the Draft Consultation Report, Draft Book of Reference or the Works and Land Plans.

Our clients accept that the documents provided are in draft only and there still significant progress needed, particularly regarding the Green Controlled Growth proposals, including governance, funding, limits, and review mechanisms.

Moreover, the draft documents do not include some fundamental elements that the LAs would like to see, particularly the Mitigation Route Map, the latest proposals for the FIRST funding and the monitoring framework. With regards to the latter, they have previously raised through Statutory Consultation a concern that Unidentified Local Impacts (ULIs) could arise in the future and we remain of the view that a monitoring, management and funding strategy for these needs to be established.

A common theme running through the documents is the desire of LR to have significant flexibility over delivery timescales and phasing of the work. Whilst the commercial reality of delivering a large infrastructure project is understood, there are significant environmental and practical implications of allowing such flexibility. Our clients are concerned that an undefined delivery trajectory and phasing of the works will result in a potentially prolonged period of construction overlapping with operational impacts, changes to the future baseline that cannot be predicted at this time, and significant resource implications for the LAs in responding to or directly dealing with discharge of requirements in respect of a significant number of works packages.

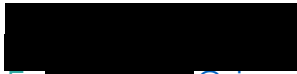
Our clients forward to discussing the above further as you progress to the submission of your application.

Regards



Martin Friend

Consultant



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APPENDIX 6

Burnie, Rammiel

Subject: Appendix 6 Copy of Email Luton Airport DCO - Statement of Common Ground 20.01.2023

From: Paul Donovan <Paul.Donovan@hertfordshire.gov.uk>

Sent: 20 January 2023 16:08

To: Farhana Hussain [redacted]@up.com>; Ian Fullstone [redacted]@north-herts.gov.uk>; Frost, Sue [redacted]@luton.gov.uk>; Gurtler, David [redacted]@luton.gov.uk>; Caroline Macrdechian [redacted]@centralbedfordshire.gov.uk>

Cc: Keenan, Madeleine [redacted]; Ashton, Kathryn [redacted] Claire Miller (X) [redacted]>; Nicole McShane [redacted]

Subject: Luton Airport DCO - Statement of Common Ground

Farhana,

Thank you for forwarding the first draft of the Statement of Common Ground (SoCG) for review by the host authorities (the 'authorities'). They had been expecting this some while ago, but given it was only actually received on 23rd December and with Christmas and New Year taking up a substantial proportion of the period available to comment (deadline 20th January), I'm afraid responding with detailed comments is proving challenging.

However, the authorities have been discussing the approach adopted by the draft SoCG with a view to establishing whether it is fit-for-purpose for the process moving forward. They have a number of substantive concerns, outlined below, on which they would appreciate further discussion.

The format/register of issues

1. The authorities' understanding of the approach that was to be taken by the SoCG was that it would adopt a logical step-by-step, left→right 'story', with the identification of key generic issues in the left hand column, then transitioning sequentially to the right with the applicant statement, host authority position and finally, way forward (if required) – thus becoming a register of all the key issues – and agreement or otherwise on these (along with appropriate sourcing/referencing). But the document does not do this – at least perhaps not as well as it could do. The left hand column appears to be an incomplete list of matters raised by the authorities, not a good representation of the key generic issues raised by the proposal. That's not to say that the matters raised by the authorities do not contain a range of these, but they are certainly not complete. When one looks down the 'Applicant's position' column other key generic issues appear to crop up. This approach doesn't aid clarity.

2. The DCLG 'Planning Act 2008: Guidance for the examination of applications for development consent' states:

'61. There are good examples of statements of common ground on the National Infrastructure Planning website. The statement should be clear about the basic information on which the parties have agreed, such as the precise nature of the proposed infrastructure, a description of the site and its planning history. Effective cross-referencing of other application documents should be used in order to avoid duplication between documents and keep the volume of examination material to the necessary minimum.'

3. And when one looks to the good practice case study examples provided by the Planning Inspectorate, one finds an example which starts off with the 'issue' to the left and moves through to agreement to the right.

4. And the Planning Inspectorate's 'Advice Note two: The role of local authorities in the development consent process' states:

'22.5 It is worth noting that just because a matter has been agreed in a SoCG does not necessarily mean that the issue will not be the subject of further questioning by the ExA, who may want to test the basis upon which agreement was reached on a particular issue. Other interested parties may also object to the position set out in the SoCG.'

5. And paragraph 1.1.6 of the draft SoCG refers to Paragraph 58 of the DCLG guidance:

"A statement of common ground is a written statement prepared jointly by the applicant and another party or parties, setting out any matters on which they agree. As well as identifying matters which are not in real dispute, it is also useful if a statement identifies those areas where agreement has not been reached. The statement should include references to show where those matters are dealt with in the written representations or other documentary evidence."

6. And paragraph 64 of that guidance states:

'64. However, the duty of the Examining Authority is not simply to accept the statement of common ground or to react to the evidence presented. The role of the Examining Authority is to ensure that all aspects of any given matter are explored thoroughly, especially with regard to the matters fundamental to the decision, rather than simply accepting the statement of common ground without question.'

7. And, importantly, Advice Note two states:

'22.2 It is often beneficial (and can reduce resourcing requirements) if you work proactively to prepare a SoCG in the pre-application and pre-examination stages. Having a clear understanding between a local authority and developer about the matters agreed / not agreed from the outset will assist in the preparation of other documents such as the LIR and written representations; potentially allowing these documents to take their lead from the SoCG and focus the detailed consideration of matters on issues which are the most controversial and remain outstanding.'

8. Unless the SoCG is genuinely issues-based and genuinely comprehensive, it cannot properly perform the function of being a register of issues/matters and a statement of agreement reached on those matters to assist the EA and other interested parties, nor will it assist as well as it should the preparation of things like LIRs and written representations.

Referencing documentation and agreement/disagreement

9. Paragraph 58 of the DCLG guidance states that the *'statement should include references to show where those matters are dealt with in the written representations or other documentary evidence'*. The SoCG does not generally reference any source documentation, nor does it reference where and when the authorities' position was allegedly arrived at. Indeed in identifying the good example reference above from the Planning Inspectorate website, one of the ways in which that good practice example could have been improved is described as.....*'These documents could have been further improved by cross-referencing to relevant documents in order to keep their overall size shorter'*.

An approach reflecting the authorities' expectations

10. The authorities do not have the resources, nor is it their responsibility, to redraft the SoCG to reflect their concerns. However, by way of example, the Planning Policy section of the draft SoCG is currently comprised of two rows – HA004 and HA005. HA004 relates to the host authorities accepting that Green Belt policy has been factored into the optioneering of the Proposed Development (why pick this out of the plethora of planning policy that could have been identified?) and HA005 to a workshop LR is arranging. Surely the left hand column should list the

relevant planning policy applicable to the proposal – with as many rows as are deemed necessary for the task – and the remainder of the template to the right would then set out the extent of agreement.

11. And by way of further illustration, undertaking a test of the WSP Technical Review of the second statutory consultation on just a couple of topics and adopting the approach the authorities were expecting, the draft SoCG would look something like the following:

Issue	Applicant statement	Host authorities' view	Further work/actions
Surface access - highways			
Highways modelling	The approach to and outputs from highways modelling are set out in paras X, X, and X of documents referenced X and X.	The host authorities position is set out in paras X-X of the WSP Technical Review of the Second Statutory Consultation. Representatives of the authorities' met with those of the applicant (25.03.2022), to discuss detailed questions about the transport modelling. At the meeting some queries were resolved however others are still outstanding (WSP 2 nd stat cons Tech Review, Page 8).	LR will provide responses as soon as possible. Awaited.
Greenhouse Gases			
Methodology	The applicant's methodology for the assessment of greenhouse gases is contained within Paras X-X of documents X and X.	Substantive methodological shortcomings have been identified with respect to a) omission of radiative forcing, b) an assumption that only one leg of a there-and-back journey should be considered, leading to significant under-reporting, and c) unsubstantiated fuel efficiency assumptions related to the future fleet, and d) the assessments over reliance on future improvements in aviation carbon emissions. (WSP 2 nd stat cons Tech Review, Page 9)	???????????????
Landscape			
Methodology, baseline, viewpoint locations, receptors and mitigation included within the Landscape and Visual Impact Assessment (LVIA).	The applicant's methodology, baseline, viewpoint locations, receptors and mitigation are included within the Landscape and Visual Impact Assessment (LVIA).	<ul style="list-style-type: none"> Insufficient explanation for many decisions on which the assessment and its conclusions are based; Explanations of susceptibility, value, sensitivity and magnitude, as well as significance, require elaboration. Detailed queries on assessment scope, and why certain potential impacts are scoped out, with explanatory evidence lacking. Elaboration required on the different receptor types, including with their value and susceptibility. Greater detail on how the various mitigation measures are to be secured, implemented, and maintained. (WSP 2 nd stat cons Tech Review, Page 12)	???????????????

12. Whereas when one looks at the draft SoCG:

- For highways modelling it says:

HA030		The Applicant seeks agreement from the Host Authorities on the modelling assumptions.	Ongoing
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- It doesn't appear to say anything about greenhouse gases in the collective host authorities section.
- For landscape it says:

HA038	The Host Authorities agree with the methodology, baseline, viewpoint locations, receptors and mitigation included within the Landscape and Visual Impact Assessment (LVIA).	The Applicant acknowledges this.	Agreed
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13. One can run through the WSP Technical Review and the Vincent and Gorbings responses to the second statutory consultation made on behalf of the authorities and find multiple missing 'issues' and therefore uncertainty about what has and has not been agreed, thereby reinforcing the concerns raised in paragraph 8.

A comprehensive review of the SoCG

14. You will be aware that WSP and Suono have been the authorities' key technical advisers, with Vincent and Gorbings taking an overview and raising further issues. The products of these three key advisers therefore represents the authorities' position on the proposals to date, supplemented by any matters raised by individual host authorities in responding to consultations and on occasion, perhaps, discussion/agreement of matters as part of the technical working groups process.

15. Ideally, the authorities would have chosen to raise Works Orders under the provisions of the PPA to commission WSP/V+G/Suono to review the draft SoCG to establish whether it reflects their engagement, advice and position to date. However, LR has refused to substantively increase the level of funding available through the PPA to support the authorities engagement with the DCO. The very limited amount of funding remaining available therefore needs to be prioritised. Given the very significant task ahead following DCO submission, the decision was made not to prepare WOs to seek resources to commission WSP/V+G to advise on the draft SoCG. However, given the ongoing engagement of Suono in the pre-application process (Noise Envelope Design Group and now the Noise Working Group) and the importance of noise issues, the authorities considered Suono engagement in the SoCG as being important. Accordingly, Suono has responded on noise issues on the authorities' behalf on 16th January.

16. The consequence of the lack of PPA resources available and the need to prioritise is that a proper full review of the SoCG has not happened at this stage and will not happen in advance of DCO submission.

The authorities future engagement on the SoCG

17. Looking forward, the extent to which the individual authorities will be able to effectively engage in the SoCG process in the future will be dependent upon decisions in relation to resourcing and whether, to what extent and how they engage in the remainder of the DCO process. Were resources to permit, the authorities would anticipate properly engaging in the SoCG process post-submission, by which time they would hope that a substantively improved version of the document would be available.

Provision of informal comments/observations

18. Notwithstanding the above, some but not necessarily all of the individual authorities hope to provide some likely relatively limited comments/observations on the draft SoCG in due course, with a view to these being provided early February.

Your mail of 16th January refers to a governance process for signing off by the POCG. I'm not at all sure, in light of their concerns, the authorities will be in a position to sign anything off.

Thanks.

Paul.

From: Farhana Hussain [redacted] <[redacted]@arup.com>

Sent: 16 January 2023 13:46

To: Ian [redacted] <[redacted]@north-herts.gov.uk>; Paul Donovan [redacted] <[redacted]@hertfordshire.gov.uk>; Frost, Sue [redacted] <[redacted]@luton.gov.uk>; Gurtler, David [redacted] <[redacted]@luton.gov.uk>; Caroline Macrdechian

APPENDIX 7 - Luton Rising DCO - informal consultation on draft documents

<[REDACTED]>
[REDACTED]
[REDACTED]
Cc: Keenan, Madeleine [REDACTED]; Ashton, Kathryn [REDACTED]@m.com>; Claire Miller (X) <[REDACTED]@arup.com>; Nicole McShane [REDACTED]@arup.com>
Subject: RE: Luton Airport DCO - Statement of Common Ground

H All,

This is a gentle reminder to provide comments on the SoCG by **20 January 2023**.

Please could you kindly advise on the governance process for signing off the SoCG from the POCG side?

If you have any issues with meeting this deadline, please let us know as soon as possible.

Many thanks
Farhana

From: Farhana Hussain
Sent: 23 December 2022 12:28 PM
To: [REDACTED]@orth-herts.gov.uk; Paul Donovan <[REDACTED]@hertfordshire.gov.uk>; Frost, Sue [REDACTED]@luton.gov.uk>; Gurtler, David [REDACTED]@luton.gov.uk>; Caroline Macrdechian <[REDACTED]@centralbedfordshire.gov.uk>; Lynsey Hillman-Gamble [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
Subject: Luton Airport DCO - Statement of Common Ground

Dear All,

We are pleased to share the initial draft Statement of Common Ground (SoCG) that has been produced by Luton Rising for the London Luton Airport (Expansion) Development Consent Order project. We are intending to submit the draft SoCG as part of the DCO application, which we will be finalising in the new year. The SoCG will demonstrate to the Planning Inspectorate the level of engagement we have had to date and the matters we have discussed and agreed.

Please note that the documents referenced within this SoCG are currently under review and subject to change. Please also be aware that this is not a final draft of the SoCG – it will continue to be updated and refined after the DCO is submitted and throughout the examination process as we continue to engage with you. We will seek your input on these further drafts.

The SoCG can be found in the OneDrive link below:

[REDACTED]

To avoid duplication, please access the document via the link and make edits or changes directly to the document. You will be able to work on the document jointly, so please don't be alarmed if you see someone working on it at the same time as you. If you have any issues accessing the link, please do let myself and @Ashton, Kathryn know and we will do our best to assist.

As part of the review process, we request that comments and input from the Host Authorities be provided in track changes, with clear identification of who has made comments. This will help ensure that the Statement of Common Ground accurately reflects the inputs and concerns of all parties involved.

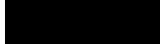
As discussed previously, we are sharing this with you for your review and comment. Please could you provide any comments on the SoCG by **20 January 2023**.

Thank you again for engaging with us this year and for providing valuable feedback on the proposals. We look forward to working with you next year. We hope you have a fantastic Christmas and New Year!

Kind regards.

Farhana

Farhana Hussain

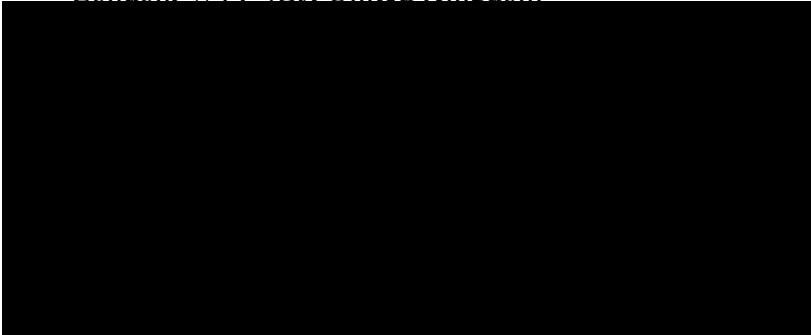


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Arup has a new flexible working policy 'Work Unbound' which allows employees to work flexibly whilst still ensuring high quality work for their clients. As such, I may send and respond to emails out of hours - there is no expectation on you to do the same

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APPENDIX 8 – Luton Airport DCO

**Sustainable Growth
Executive Director Patsy Dell**



**Antony Aldridge
Head of DCO Programme
Luton Rising
Hart House Business Centre
Kimpton Road
Luton
LU2 0LA**

**Spatial Planning & Economy Unit
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Tel: [REDACTED]
Email: [REDACTED]n@hertfordshire.gov.uk
My ref:
Your ref:
Date: 20th January 2023

Dear Antony,

**London Luton Airport Development Consent Order – resourcing the
engagement of the host authorities**

**Letter on behalf of the host authorities – Central Bedfordshire, Dacorum,
Hertfordshire, Luton and North Hertfordshire councils**

There has, over recent weeks, been a surge in meetings between Luton Rising (LR) and the host authorities (the ‘Authorities’) in a range of topic areas. On 23rd December 2022 the Authorities received a first draft of the Statement of Common Ground, with a deadline for comment of 20th January 2023. This uplift in engagement is in anticipation of LR’s current intention to submit the Development Consent Order (DCO) in Quarter 1 of 2023. This has collectively served to focus the attention of the Authorities, once again, to the issue of resourcing their engagement in the process moving forward.

Your emails of 23rd June and 11th July 2022 were in response to the Authorities’ request for an extension of funds to be made available by LR to the Authorities. The purpose of these additional funds would be to enable them to engage effectively in the DCO process under the provisions of the Planning Performance Agreement (PPA) dated 3rd December 2019 that exists between them and LR. As you will be aware, the core principles of the PPA are threefold:

1. work positively together towards a collaborative project management framework;
2. constructively engage in the pre-examination and examination stages of the DCO process in relation to FL; and
3. adhere to deliverables, milestone dates and standards agreed under any Works Orders under the PPA.

The PPA sets out that LR would make available a sum of £250,000 (the Fee) to the Authorities to enable them to undertake the various activities identified within it, specifically in relation to any agreed Works Orders (WO). You will be aware of the Authorities' concerns from the outset of engagement and at the time of drafting and signing of the PPA that the quantum of the Fee would prove to be insufficient to cover the necessary resources required by the Authorities, given the significant complexity of the proposals. This was acknowledged by all parties at the time the PPA was entered into, and in this context a mechanism was included in the PPA for that Fee to be extended (albeit at LR's discretion and to be associated with WOs).

As the Authorities have completed various activities within the parameters of the PPA, it became apparent that the Fee would in fact prove insufficient in practice. For this reason, the Authorities have on various occasions requested an extension to it, notionally to make provision for an additional £250,000.

In response to that request, you set out by email of 23rd June 2022 the various reasons why this would not be possible. This includes the difficulties experienced as a consequence of the COVID-19 pandemic, the need to settle a complex commercial matter with your operator and maintaining your community funding programme. In addition, you highlighted the need to undertake a major review of the DCO, which has resulted in a 2 year prolongation of the programme and the need for a second Statutory Consultation.

You subsequently e:mailed on 11th July 2022 referring to the upcoming review by the Authorities of a number of draft documents that are proposed to form part of the suite of DCO application documents, stating that the review "*is not intended to be a revisit of the consultation type of review and is primarily around a review of the structure, format and indication of content of some of the key documents*". Your e:mail goes on to conclude that, due to this proposed limited scope of review, LR does not consider that the Authorities would '*require extensive external support*'. Notwithstanding this, your mail concluded that '*On the basis that it would secure your commitment to continuing to work with us, through to submission of our application, in the helpful manner we have all benefitted from to date, Luton Rising would be prepared to round up this figure to £75,000' (emphasis added). In reality, this proposal represents an additional c£40,000 to the balance of c.£35,000 still available under the original Fee. The Authorities' engagement in the draft documents sharing process was in the 'light touch' spirit sought by LR – no technical or legal support was secured and part of the Authorities' rationale for this was to protect the remaining PPA resources.*

Whilst the principle of offering this limited extension to the Fee is welcomed, the Authorities are of the view that it does not go anywhere near far enough. Primarily, this is because:

1. The intention of LR and the Authorities was and should be that the PPA would cover activities up to the Secretary of State's decision on the DCO – see, for example, the definition of 'Term' under the PPA. Your e:mail suggests that the Authorities and LR are working together "*through to submission of our*

application", but this is not consistent with the terms of the PPA. As such, any extension to the Fee would need to be considered in this wider context.

2. The Authorities will need to undertake a detailed, meaningful review of the full DCO application, post-submission, particularly given their role in monitoring compliance with (and, it is assumed, discharging) the DCO requirements should the DCO be granted. To that end, the Authorities see no reason why support under the terms of the PPA should not be made available to them, as it has been to date – this would require a much more significant extension of the Fee than that currently proposed.
3. In addition, the work required to undertake a review of the DCO application post-application (and, indeed, any updates to key materials during the DCO examination) will be crucial to enable the Authorities to inform their input into the proposed Statement of Common Ground between them and LR, as well as the preparation of the Local Impact Report (as well as other functions), which are recognised by the PPA as being matters likely to be the subject of WOs for which resources are to be made potentially available to the Authorities. As such, the adequacy of the Fee needs to be considered in that context.
4. The PPA provides for matters not expressly included within it to form the basis for a WO, with the agreement of the Coordination Group. Given the PPA would last up to the Secretary of State making a decision on the DCO, it is inevitable that any activities would require significant resource, which would be unable to be covered under the current Fee.

Given the likely scale of the forthcoming engagement expectations of the host authorities and the lack of commensurate resources available, the host authorities urge LR to reconsider the financial support it is willing to provide to the Authorities for it to deliver on the arrangements set out within the PPA.

Yours sincerely,

Paul Donovan

Sustainable Growth