

LONDON LUTON AIRPORT EXPANSION DCO

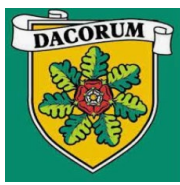
Local Impact Report

Hertfordshire County Council, Dacorum Borough
Council and North Herts Council

Planning Inspectorate Scheme Ref: TR020001

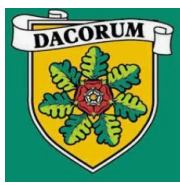
25 August 2023

**Dacorum Borough Council (20040781), Hertfordshire County Council
(20040777), North Hertfordshire Council (20040773)**



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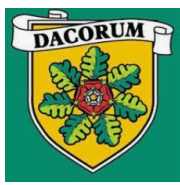
1. INTRODUCTION

- 1.1.1 This report represents the Local Impact Report (LIR) of Dacorum Borough Council, Hertfordshire County Council and North Hertfordshire District Council (North Herts Council) they will be referred to as the 'Councils' when the comment relates to all three host Councils and whether the commentary relates to a specific local authority, the local authority's name will be used. The London Luton Airport Expansion proposal Development Consent Order (DCO) will be referred to as 'The Proposed Development'.
- 1.1.2 The Councils are '*Interested Parties*' under the Planning Act 2008 with respect to the proposed development as host and neighbouring authorities as part of the DCO works fall within each of the authorities administrative boundaries. The Councils have had regard to the purpose of LIRs as set out in s60(3) of the Planning Act 2008 (as amended), DCLG's Guidance for the examination of applications for development consent and the Planning Inspectorate's Advice Note One, Local Impact Reports (AN1) in preparing this LIR.
- 1.1.3 Paragraph 4.4 of AN1 advises that Local Councils should set out clearly their terms of reference for the LIR.
- 1.1.4 The LIR only relates to those aspects of the application that potentially have implications for the administrative areas of the Councils.
- 1.1.5 In accordance with paragraph 4.5 of National Infrastructure Planning Advice Note 1 Local Impact Reports do not replicate but draw upon the Environmental Statement [PINS Ref: APP-029] to identify impacts as it and other application documents are the key place where impacts are identified, and cross referring will be used to highlight relevant areas of those documents. This will satisfy advice in paragraph 4.6 of AN1 that LIRs should consist of a statement of positive, neutral, and negative local impacts – wherever possible those statements are made within each of the '*Assessment of Impact*' in Sections 7 below.
- 1.1.6 In accordance with paragraph 4.6 of AN1, the LIR does not contain a balancing exercise between positives and negatives as "*The Examining Authority will carry out a balancing exercise of relevant impacts, and these will include those local impacts specifically reported in the LIR*".
- 1.1.7 Paragraph 4.7 of AN1 advises that it would be very helpful for the LIR to present an appraisal of the proposed development's compliance with local policy and guidance. The LIR seeks, where there is local policy/guidance in



place, to do this within each of the ‘*Assessment of Impact*’ in Section 7.

- 1.1.8 Paragraph 4.8 of AN1 advises that it would assist the Examining Authority if LIRs could give a view on the relative importance of different social, environmental, or economic issues and the impact of the scheme. The LIR provides this view and conclusions in Section 8 and comments on the environmental issues associated with Green Controlled Growth in Section 10.
- 1.1.9 Paragraph 4.9 of AN1 States that LIRs should present views on DCO articles, requirements and DCO obligations, comment and explicitly mention those that seek to put in place specific mitigation or compensatory measures and identify any articles, requirements, and obligations that the local authority considers ought to be included. The Council’s LIR does this within each of the ‘*Assessment of Impact*’ and in full in Section 9 of the LIR.
- 1.1.10 This LIR is the Council’s Local Impact Assessment submitted on 25 August 2023; Deadline 1A of the examination.
- 1.1.11 The Councils are grateful to the Examining Authority for extending the deadline for the submission of Local Impact Reports to Friday 25 August 2023. Our LIR sets out in Section 7 our initial review of the impacts associated with the proposed scheme, based on review and consideration by our technical consultants. As the Examination progresses and more information and clarity on matters becomes available the Councils will seek to update the LIR to confirm the remaining local impacts for the Secretary of State to have full regard to, by way of an addendum. Alongside their Written Representation, the Councils intend to use the LIR to inform their ongoing engagement with the applicant (particularly in relation to Statements of Common Ground), their respective Principal Areas of Disagreement Summary Statements and of course the Examination process itself.



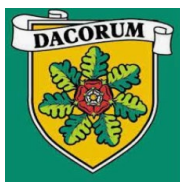
2. DESCRIPTION OF APPLICATION SITE AND SURROUNDINGS

- 2.1.1. A full description of the site of the Proposed Development and its surroundings is found within the Applicant's Environmental Statement Chapters 2 and 4 [PINS ref: APP-030 and AS-074] This Local Impact Report (LIR) sets out a brief summary of the site and surroundings.
- 2.1.2. Order limits for the Proposed Development fall within the administrative boundaries of Luton Borough Council, Central Bedfordshire, Dacorum Borough Council, Hertfordshire County Council and North Herts Council.
- 2.1.3. The existing land uses that are in or adjacent to the Order Limits comprises of the existing London Luton Airport, highways used to access the site, a single residential property, and Wigmore Valley Park. The parts of the application site that fall within the district of North Herts are characterised by agricultural land with arable fields and hedgerow boundaries with scattered trees. These characteristics cross the boundary of Luton Borough Council and North Herts Council. The administrative boundary between these Councils marks the Green Belt. There is additionally an extensive network of Public Rights of Way, including the footpaths off Winch Hill Road, bordering the application site immediately to the east in North Herts Council.
- 2.1.4. The northern extent of Dacorum Borough Council abuts limits for highway junction improvements. On the boundary of the Dacorum Borough lies the M1 with Junction 10 being the key exit for the airport. The junction is approximately 4km from the main application site. The M1 is how most vehicles access the airport due to the connections to the north and south via the M25.
- 2.1.5. To the west of the application site there is the Midland Mainline Railway line which runs through the Luton Borough Council administrative boundary and Central Bedfordshire, serviced by Thameslink and East Midlands Railway trains. This rail link connects to Luton Airport Parkway station, located approximately 1.5km from the site.
- 2.1.6. In addition to the description already produced, the site is in close proximity to the Chilterns Area of Outstanding Natural Beauty which is located approximately 3km north and 5km west of the airport. There is also Wigmore Valley Park which is to be lost and an open space of a greater area will be provided to the east of the existing green space. Parts of Wigmore Valley Park also has areas that are designated as a Country Wildlife Site (CWS).
- 2.1.7. The design of the proposed development avoids excavation on the ridgeline of Winch Hill or in land that is occupied by a site of Iron Age and Roman



settlement related activity. This site is located within the field immediately to the south east of Wigmore Valley Park.

2.1.8. In Hertfordshire, there is the Zone of Influence (ZOI), also referenced as the Expansive Study Area, used for the cumulative assessment for waste and resources. Mitigation measures have been integrated within the proposed development for the purpose of minimising effects related to waste and resources during construction.



3. SUMMARY OF THE PROPOSED DEVELOPMENT

3.1.1. The Applicant, Luton Rising submitted an application to the Secretary of State for approval of a DCO application to expand Luton Airport on 27 March 2023. The application contains multiple descriptions of the details of the proposal - for example within section 4.1 of the Planning Statement [PINS ref: APP-005] so the LIR only contains a summary of the development.

3.1.2. It should be noted that the Councils are currently considering the acceptability of the limits of the works and will engage with the applicant on this point throughout the application process. However, for the purposes of this LIR, where limits are referred to, they are as set out by the applicant in the application documents.

3.1.3. The limits of the proposed development are partially located within the operational footprint of the existing airport, located within the authoritative boundary of Luton Borough Council and partially within the authoritative boundary of the Councils (Hertfordshire County Council, North Herts Council and Dacorum Borough Council) including Wigmore Valley Country Park.

3.1.4. The proposed development will increase the overall passenger capacity from 18 to 32 million passengers per annum (mppa).

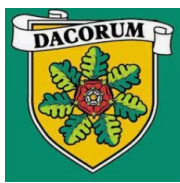
3.1.5. The proposed development comprises the following principal components:

- Extension and remodelling of Terminal 1;
- New passenger Terminal 2 building and boarding tiers;
- Extend current airfield platform;
- Airside facilities including taxiways, aprons, fire training facility and engine run up bay;
- Landside facility buildings to support operational, energy and servicing needs;
- Enhancement of the existing surface access network including a new dual carriageway and parking facilities;
- Extension of the Luton Direct Air to Rail Transit (DART) and new station;
- Landscape and ecological improvements;
- Infrastructure enhancements including electric vehicles charging, on-site energy generation and storage, a new aircraft fuel pipeline and sustainable surface and foul water management installations.

3.1.6. The following elements fall within the North Herts Council /Hertfordshire County Council's authoritative limits:

Construction 2025-2032

- Replacement Open Space (5b (02)) for Wigmore Valley Park.
- Habitat creation (5d(01))
- Offsite hedgerow restoration (5e)



- Footpath 41 and 43 improvements
- Bridleway BW52 upgraded.

2a - 2033-2036

- Fuel pipeline (4c(02))
- Infiltration Tanks (4v)
- Habitat creation (5d(02))
- New bridleway to connect FP41 with BW52 (5b(06))
- Airport Road at Public highways (barriered junction) (6d)
- Hitchin – offsite highways improvements ((6e(k), 6e(l) and 6e(m))
- Water treatment plant (4d) and fuel storage facility (4c(01))
constructed in Luton Borough abutting Herts boundary.

2b - 2037-2042

- Landscape Restoration (5c(02)) – to stockpile and infiltration area, and area that abuts water treatment plant and fuel storage facility.
 - New bridleway linking BW52 to FP 41
 - New bridleway linking FP43 to Winchmore Hill Rd
- Operation 2043
- Ongoing management and maintenance and establishment of mitigation planting

Operation 2056

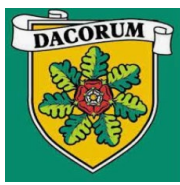
- Ongoing management and maintenance and establishment of mitigation planting



4. RELEVANT PLANNING HISTORY AND ANY ISSUES ARISING

4.1.1. A planning history of all development proposals relevant to the application Order limits is detailed in Appendix A of the applicant's Planning Statement [PINS ref: AS-122]. These applications fall outside the Councils' authoritative limits, so a full schedule of these documents is not repeated in this LIR.

4.1.2. London Luton Airport's previous Planning Application 12/01400/FUL, granted by Luton Borough Council placed a cap of 18 mppa and set out obligations. Should the DCO application for the Proposed development be granted this cap ceases to have effect. The Councils have set out recommendations on a replacement for this existing cap in Section 9.



5. PLANNING POLICY OVERVIEW

5.1. Planning Practice Guidance

5.1.1. A summary of relevant national planning policies is provided within the Planning Statement [PINS Ref: AS-122] so is not repeated in this document. However, it is noted that the Applicant's assertion is that the proposed development is compliant with national policies and is subject to the benefits being appropriately balanced against impacts.

5.1.2. The Proposed Development falls to be determined in accordance with s105 of the Planning Act 2008. This requires the Secretary of State, in making a decision to have regard to:

- a) Any local impacts;
- b) Any matters prescribed in relation to that Proposed Development; and
- c) Any other matters which the Secretary of State thinks are both important and relevant to the Secretary of State's decision.

5.1.3. It is noted that the statutory requirements of s104 of the Planning Act 2008 are not applicable, and that the Proposed Development is not one to be determined as a nationally significant infrastructure project in accordance with the Airports National Policy Statement (NPS). However, we note that the Airports NPS and other relevant government policy may be considered an important and relevant matter and may be taken into account.

5.1.4. For the Proposed Development, the test is, therefore, a determination 'on its merits' and having regards to LIR, prescribed matters, and the overall 'planning balance' of needs and benefits with regard to important and relevant matters. It is not the case that there is a presumption in favour of the application being granted in accordance with the Airports NPS.

5.2. Statutory Development Plan

5.2.1. The in-force Development Plans for the Councils that are considered to be within the zone of influence of the application are as follows:

- North Hertfordshire Local Plan 2011-2031
- Dacorum Core Strategy (2006-2031)
- Hertfordshire Waste Development Framework
- Waste Core Strategy & Development Management Policies Development Plan Document 2011 -2026
- Hertfordshire Minerals Local Plan Review 2002-2016
- Stevenage Borough Local Plan 2011-2031



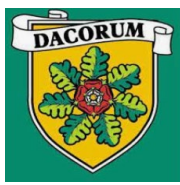
- St Albans Saved Policies
- Welwyn Hatfield Saved Policies
- Hertfordshire Local Transport Plan 2018-2031 (LTP4)

5.2.2. Policies within the Development Plans that are considered relevant to the proposals are identified within the relevant 'Assessment of Impacts' sections within Section 7.

5.2.3. An assessment of the Proposed Development's compliance to these planning policies is also set out in Section 7.

5.3. Supplementary Planning Guidance or Documents

5.3.1. There are not considered to be any supplementary planning guidance or documents, development briefs or approved masterplans in force in Hertfordshire that are particularly relevant to the proposals.



6. RELEVANT DEVELOPMENT PROPOSALS

6.1.1. Other than those already specified in the application (i.e. within the Cumulative Effects Assessment [PINS ref: AS-032], there are no development proposals under consideration or granted permission within Hertfordshire within the confines of the proposed DCO limits that are considered to be relevant.

North Herts Council

6.1.2. There are, however, two proposals within North Hertfordshire District within relatively close proximity to the Proposed Development, as follows:

- Planning Application: 22/03231/FP- A proposed solar farm within 106 hectares with associated access, landscaping, battery storage and ancillary infrastructure at land north east of Wandon End, Hertfordshire. The interface between the implementation of this planning application and the Proposed Development needs to be considered; and
- Development Plan Allocation: Policy SP19: Sites EL1, EL2 & EL3 – East of Luton - Land to the east of Luton, is allocated as a Strategic Housing Site for a new neighbourhood of approximately 2,100 homes. This allocation is considered relevant on traffic and transport and surface access grounds during both construction and operation. The interface between this development plan allocation and the Proposed Development needs to be considered.

6.1.3. These proposals are not part of the DCO application and are identified by virtue of their close proximity to the application and potential cumulative impacts with the proposed development.



7. ASSESSMENT OF LOCAL IMPACTS OF THE PROPOSED DEVELOPMENT

7.1. Introduction

7.1.1. The following sections identify the impacts of the Proposed Development on the Councils' administrative areas and sets out the Council's views on these matters.

7.2. Principle of the Development

7.2.1. All three Councils maintain their objections in principle to the Proposed Development. The reasons for this are set out in summary in the following section and in more detail in the individual topic sections in the rest of the document:

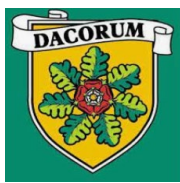
Local Impacts

Hertfordshire County Council

7.2.2. Hertfordshire County Council maintains its ongoing in-principle pre-submission objection: *“Unless and until there is evidence to demonstrate, and mechanisms to ensure, that the Airport can grow and be operated in a responsible manner, in the spirit of the Government’s aspiration for a partnership for sustainable growth set out in Aviation 2050, which contains its environmental impacts to within prescribed acceptable and agreed limits that are enforceable, can achieve an overall betterment in the amenity and health of the communities impacted by it – both immediate and further afield, and can adequately provide for the surface access needs required of it, the County Council has an in-principle objection to growth of the Airport. This evidence has not currently been provided as part of the application submission.”*

Dacorum Borough Council

7.2.3. Dacorum Borough Council are concerned that *“the application in its current form lacks sufficient clarity, transparency, and consistent methodology to provide sufficient reassurance to local communities that the airport can grow and be operated in a responsible manner to achieve sustainable growth as set out in Aviation 2050. The evidence does not currently exist that environmental, health and well-being, and surface access impacts will be within agreed and acceptable limits that can be appropriately enforced and will achieve overall betterment to local communities. Dacorum Borough Council therefore has in-principle objection to growth of the airport pending satisfactory and appropriate resolution of those matters.”*



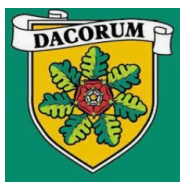
North Herts Council

7.2.4. *“North Hertfordshire District Council objects in principle to the proposed scale of expansion of London Luton Airport on the grounds that it is inconsistent with the Council’s declaration of a climate emergency and with national targets on decarbonisation for 2030, 2035 and 2050. The Council is unpersuaded that the evidence submitted, and the enforcement mechanisms proposed in the DCO application reports are sufficient to demonstrate that the Airport can grow by 78% (from 18mppa to 32mppa) and still meet its climate change obligations in full, as required by national policy. Furthermore, the Council remains concerned that the impacts on North Herts’ residents, businesses, heritage, and natural environment, in terms of increased air pollution, noise exposure and road traffic, have not been robustly modelled and that the proposed mitigations and remedies are inadequate. Without prejudice to its in-principle objection to the development, the Council is willing to engage with the applicant to review the data and analysis, agree any additional data and analysis required, and co-design any additional or altered mitigations with a view to making the proposed development acceptable in planning terms to the Council.”*

7.2.5. The Councils place the highest levels of emphasis on the importance of addressing the environmental impacts of the Proposed Development, and on effective controls and mitigation, in the context of the planning balance. This includes but is not limited to: air quality, health and community, surface access, noise, emissions, and landscape and visual impacts, together with cumulative effects.

7.2.6. It is imperative that the decision to grow the capacity of London Luton Airport should not be driven simply by demand and economic benefits, which are at risk of being over estimated, and which do not benefit the Councils and local communities in the same way that they do the Applicant. The adverse environmental effects carry as much weight in the decision-making process and the economic benefits. Regard must also be had to any mitigation, including through Requirements, s106 Obligations and the Green Controlled Growth (GCG) Framework when determining this application. Whilst this is not considered to be a local impact, the implementation of the GCG and its thresholds controls the extent of these impacts. Further information is provided in Section 10 of this document.

7.2.7. In support of the issues in relation to environmental impacts, and principally air quality, health and community, surface access, noise, emissions and landscape and visual impact, further details are set out in the following sections in relation to each topic area, and these include where relevant consideration of national and local planning policy issues. Alongside these environmental impacts, Sustainable Green Controlled Growth including four types of impacts



from aircraft noise, air quality, greenhouse gases and surface access and proposed thresholds are considered to be key issues.

7.2.8. The Councils consider that the information submitted in the application does not enable the Councils to come to a view on whether the Proposed Development complies with planning policies. In order to establish this, the Councils request opportunities to engage technically with the applicant in relation to relevant matters, with a view to informing the on-going preparation of Statements of Common Ground/Principal Areas of Disagreement, Summary Statements and to provide clarity on the proposals and their compliance in this regard.

7.2.9. Based on the information provided, the Councils do not consider that there is enough evidence to demonstrate that the economic and other benefits of the Proposed Development outweigh the adverse impacts on the existing landscape and habitats and through noise and air quality emissions. Further details on this are included in other sections of the document.

Adequacy of Application/dDCO

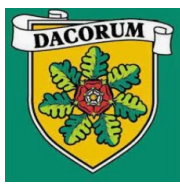
7.2.10. The Councils have reviewed the various versions of the draft Development Consent Order (dDCO) submitted by the Applicant, including the most recent version accepted at the discretion of the Examining Authority [PINS ref: AS-067].

7.2.11. No engagement on the dDCO has taken place since the Application was submitted on 27 March 2023.

7.2.12. Given the critical importance of the dDCO as the primary consenting instrument of the Proposed Development, the Councils have reviewed the dDCO. This review has highlighted a number of concerns with the drafting as it stands, particularly around the control mechanisms during both construction and operation of the Proposed Development. To this end, the Councils request that the Applicant engages with the Councils on the dDCO as soon as possible, with a view to them being provided with sufficient comfort on their concerns.

7.2.13. The primary concerns with the dDCO identified by the Councils are set out in Section 9 of this LIR. However, given the weight of material that comprises the Application currently being considered, the Councils may wish to raise further points on the dDCO in subsequent submissions.

7.2.14. The Councils note that the Code of Construction Practice (CoCP) is a key document to control the local impacts of the construction works. The Councils have cross referred to the CoCP where appropriate in the topic sections below and commented on the suggested wording for Requirement 8 to



add clarification and limit the amount of latitude that the Applicant has to deviate from the CoCP measures in Section 9 of this LIR.

7.2.15. The Councils are not convinced that the information submitted as part of the application is sufficient to that the benefits outweigh the harm and local impacts of the Proposed Development. A number of general comments and suggested mitigations are set out above and in section 9 in relation to the dDCO and recommended requirements.

7.3. Traffic and Transport and Surface Access

7.3.1. This section considers the local impacts in relation to surface access and traffic and transport.

Relevant local policies

Hertfordshire Local Transport Plan 2018-2031

7.3.2. The Hertfordshire Local Transport Plan 4 (LTP4) sets out how transport can assist with the delivery of Hertfordshire's future vision.

7.3.3. The following policies in LTP4 are of relevance to the Proposed Development:
'Policy 1: Transport User Hierarchy To support the creation of built environments that encourage greater and safer use of sustainable transport modes, the county council will in the design of any scheme and development of any transport strategy consider in the following order:

- *Opportunities to reduce travel demand and the need to travel*
- *Vulnerable road user needs (such as pedestrians and cyclists)*
- *Passenger transport user needs*
- *Powered two wheeler (mopeds and motorbikes) user needs*
- *Other motor vehicle user needs'*

'Policy 2: Influencing land use planning The county council will encourage the location of new development in areas served by, or with the potential to be served by, high quality passenger transport facilities so they can form a real alternative to the car, and where key services can be accessed by walking and cycling.'

'Policy 3: Travel Plans and Behaviour Change The county council will encourage the widespread adoption of travel plans through:

- a) Working in partnership with large employers, businesses and other organisations to develop travel plans and implement Smarter Choices measures.*
- b) Seeking the development, implementation and monitoring of travel plans as part of the planning process for new developments.*
- c) Supporting school travel plans, and working closely with parents, pupils, teachers and local residents to deliver a network of more sustainable transport links to school.'*

'Policy 5: Development Management The county council will to work with development promoters and the district and borough councils to:



- a) *Ensure the location and design of proposals reflect the LTP Transport User Hierarchy and encourage movement by sustainable transport modes and reduced travel demand.*
- b) *Ensure access arrangements are safe, suitable for all people, built to an adequate standard and adhere to the county council's Highway Design Standards.*
- c) *Consider the adoption of access roads and internal road layouts where they comply with the appropriate adoption requirements and will offer demonstrable utility to the wider public. Where internal roads are not adopted the county council will expect suitable private management arrangements to be in place.*
- d) *Secure developer mitigation measures to limit the impacts of development on the transport network, and resist development where the residual cumulative impact of development is considered to be severe.*
- e) *Require a travel plan for developments according to the requirements of 'Hertfordshire's Travel Plan Guidance'.*
- f) *Only consider new accesses onto primary and main distributor roads where special circumstances can be demonstrated in favour of the proposals.*
- g) *Resist development that would either severely affect the rural or residential character of a road or other right of way, or which would severely affect safety on rural roads, local roads and rights of way especially for vulnerable road users. This should include other routes which are important for sustainable transport or leisure.'*

'Policy 9: Buses The county council will promote and support bus services to encourage reduced car use by:

- a) *Supporting the delivery of infrastructure including bus priority measures, focussed on a core bus network, and by minimising bus service disruption from road congestion and the effects of road works.*
- b) *Providing and maintaining all bus stops, and other bus related highway infrastructure, to a consistent quality and standard across the county.*
- c) *Utilising new powers afforded to local authorities through the Bus Services Act 2017 as appropriate.*
- d) *Reviewing, procuring and supporting cost effective and efficient bus services to improve accessibility and respond to existing and potential passenger needs. Review existing services and take account of enhanced security provision.*
- e) *Working with a wide range of partners through the Intalink Quality Partnership to achieve improvements in facilities and services to improve the end to end journey by multi-modal interchange, accessibility, security and the journey experience.*
- f) *Working with partners to develop appropriate passenger fares, encourage the development of smart ticketing and to improve the provision and accuracy of passenger information.*
- g) *Working with partners to promote bus services as an option for work and school journeys, and promote and publicise the passenger transport network through a variety of media.'*

'Policy 10: Rail The county council will support and promote rail use in the county, especially in order to reduce car use. To do this it will:



- a) *Work with the rail industry and other partners to seek improvements to train services in regards to capacity, journey times, frequency and range of destinations served.*
- b) *Work with the rail industry and other stakeholders to make rail travel more attractive through improved fares and ticketing, upgraded station facilities and better access and interchange by sustainable modes of transport.*
- c) *Support Community Rail Partnerships in the county.* d) *Publish a Rail Strategy setting out how the county council's objectives can be achieved.'*

'Policy 11: Airports The county council, working in partnership with neighbouring local authorities and airport operators, will seek improvements to surface access to Luton and Stansted Airports, and promote and where possible facilitate a modal shift of both airport passengers and employees towards sustainable modes of transport. The county council is opposed to new runway development at Luton and Stansted Airports.'

Policy 19: Emissions reduction The county council will reduce levels of harmful emissions by:

- a) *Promoting a change in people's travel behaviour to encourage a modal shift in journeys from cars to walking, cycling and passenger transport.*
- b) *Addressing any barriers to and supporting the uptake of ULEVs in the county, particularly where this can positively affect areas with identified poor air quality.*
- c) *Reducing emissions from its operations.*

'Policy 20: Air Quality The county council will seek to reduce the impact of poor Air Quality on human health, by:

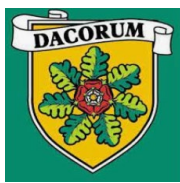
- a) *Investigating the use of Clean Air Zones.*
- b) *Working with district/borough councils to monitor and assess air pollution levels, and working in partnership with them to deliver any declared AQMA joint action plans.*
- c) *Implementing, monitoring and reviewing the county council's Air Quality Strategic Plan.'*

'Policy 21: Environment The county council will seek to:

- a) *Ensure the impacts of traffic and transport infrastructure on the natural, built and historic environment are minimised.*
- b) *Protect and enhance the quality of public spaces both in urban and rural areas.*
- c) *Minimise the visual intrusion of highways infrastructure in order to reduce street clutter.*
- d) *Minimise light pollution and conserve energy from street lighting and signage illumination.*
- e) *Minimise noise issues arising from transport where practical to do so.*

Where highway improvements are being undertaken the county council will:

- f) *Minimise and or mitigate the adverse physical impact on the landscape and environment and will try to secure significant and demonstrable environmental gains.'*



‘Corridor 2: London-Watford-Luton Milton Keynes states that Luton Airport generates significant travel demand. We will work with Luton Borough Council and airport operators on improving surface access to Luton Airport,.....’

‘Corridor 6: Luton – Stevenage states that Luton Airport generates a significant amount of traffic on the corridor. Working in partnership with Luton Borough Council and airport operators to improve surface access to the airport to support its growth.’

7.3.4. The North Central Growth and Transport Plan has been developed as support to the LTP4, playing the part as a strategic spatial transport plan for the Hertfordshire County Council area. Within the Growth and Transport Plan, there are no strategic interventions that have been prescribed, whilst thinking about future possibilities and opportunities.

North Hertfordshire Local Plan

7.3.5. Policy SP6: Sustainable Transport of The North Hertfordshire Local Plan

States that: *“We will deliver accessibility improvements and promote the use of sustainable transport modes insofar as reasonable and practicable. We will:*

- a) Comply with the NHDC Transport Strategy and the provisions of the Local Transport Plan and other supporting documents as relevant;*
- b) Encourage development in locations which enable sustainable journeys to be made to key services and facilities;*
- c) Work with Hertfordshire County Council, neighbouring Councils, Highways England, and service providers to ensure that a range of sustainable transport options are available to all potential occupants or users. This may involve new or improved pedestrian, cycle and passenger transport (including rail and/or bus) links and routes;*
- d) Seek the earliest reasonable opportunity to implement sustainable travel infrastructure on Strategic Housing Sites and other development sites in order to influence the behaviour of occupiers or users, along with supporting Travel Plans in order that sustainable travel patterns become embedded at an early stage;*
- e) Assess development proposals against the parking standards set out in this Plan and having regard to relevant supplementary advice;*
- f) Require applicants to provide assessments, plans and supporting documents to demonstrate the safety and sustainability of their proposals; and*
- g) Protect existing rights of way, cycling and equestrian routes and, should diversion be unavoidable, require replacement routes to the satisfaction of the Council.”*

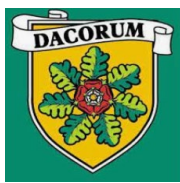
7.3.6. The policy goes on to state that *“the Council will require development proposals to make provision for infrastructure that is necessary in order to accommodate additional demands resulting from the development. We will:*



- a) *Require developers to provide, finance and/or contribute towards provision which is fairly and reasonably related in scale and kind to the development, including:*
 - i. *on-site and/or off-site improvements and infrastructure necessary as a result of development in order to:*
 - *ensure appropriate provision of facilities and infrastructure for new residents;*
 - *contribute toward addressing cumulative impacts that might arise across multiple developments;*
 - *avoid placing unreasonable additional burdens on the existing community or existing infrastructure;*
 - *mitigate adverse impacts where appropriate; and/or*
 - *enhance critical assets or make good their loss or damage; and*
 - ii. *maintenance and/or operating costs of any such new provision;*
- b) *Ensure essential new infrastructure to support new development will be operational no later than the completion of development or during the phase in which it is needed, whichever is earliest;*
- c) *Refuse planning permission where appropriate agreements or processes ensuring criteria (a) and (b) can be met are not in place*
- d) *Have regard to relevant national guidance or requirements in relation to planning obligations and any Community Infrastructure Levy or successor funding tariff which may be introduced by the Council;*
- e) *Work with landowners, developers, and other agencies in facilitating the delivery of sites identified in the Local Plan and associated infrastructure and seek to overcome known obstacles; and*
- f) *Need robust evidence to be provided where developers consider that viability issues impact upon the delivery of key infrastructure and/or mitigation measures. This evidence will be used to determine whether an appropriate and acceptable level of contribution and / or mitigation can be secured.'*

7.3.7. Policy T1: Assessment of Transport Matters States that: *Planning permission will be granted provided that:*

- a) *Development would not lead to highway safety problems or cause unacceptable impacts upon the highway network;*
- b) *Mechanisms to secure any necessary sustainable transport measures and / or improvements to the existing highway network are secured in accordance with Policy SP7;*
- c) *Suitable Transport Statements, Transport Assessments and / or Travel Plans along with supporting documents are provided where required; and*
- d) *For major developments, applicants demonstrate (as far as is practicable) how:*
 - i. *the proposed scheme would be served by public transport;*



- ii. *Safe, direct, and convenient routes for pedestrians and cyclists will be provided; and iii. Comprehensive integration into the existing pedestrian and cycle, public transport and road networks will be secured.*

7.3.8. Hitchin: Our transport modelling identifies that “a number of junction improvement schemes will be required in Hitchin by 2031:

- a) *A505 Cambridge Road / Willian Road / Woolgrove Road*
- b) *A505 Upper Tilehouse Street / B655 Pirton Road*
- c) *A505 & A602 Paynes Park*
- d) *A602 / B656 / Gosmore Road*
- e) *Cadwell Lane / Wilbury Way / Woolgrove Road*

7.3.9. *A number of these highway mitigation schemes are on the routes of the A505 and A602 as they pass through the town. It is notable from the transport work that the majority of these schemes would be required even if no further development was being proposed through this Plan.*

7.3.10. *All schemes in Hitchin will be required to make reasonable contributions towards the funding of these works and to walking and cycling schemes in Hitchin which aim to influence mode share and free up capacity for new development. In some cases, existing traffic or background growth may result in junction capacity issues, and new development will further increase these problems. However, any additional capacity developed to resolve existing, or background growth issues will also be taken up by new development, and appropriate contributions are therefore likely to be required. Any highway mitigation scheme at the A602 / B656 / Gosmore Road roundabout will need to consider the effects upon the Air Quality Management Area which has been declared on the approach to this junction.”*

Dacorum Core Strategy (2006-2031)

7.3.11. Policy CS8: Sustainable Transport states that ‘All new development will contribute to a well-connected and accessible transport system whose principles are to:

- a) *give priority to the needs of other road and passenger transport users over the private car in the following order:*
 - *Pedestrians*
 - *Cyclists*
 - *Passenger transport (buses, trains, and taxis)*
 - *Powered two wheeled vehicles*
 - *Other motor vehicles;*
- b) *ensure good access for people with disabilities;*
- c) *ensure passenger transport is integrated with movement on roads, footways and cycleways;*



- d) *create safer and continuous footpath and cycle networks, particularly in the towns;*
- e) *maintain and extend the rural rights of way network;*
- f) *improve road safety and air quality;*
- g) *strengthen links to and between key facilities (bus and railway stations, hospitals, main employers, and town centres); and*
- h) *provide sufficient, safe, and convenient parking based on car parking standards*: the application of those standards will take account of the accessibility of the location, promoting economic development and regeneration, supporting shopping areas, safeguarding residential amenity, and ensuring highway safety. Development proposals will also contribute to the implementation of the strategies and priorities set out in the Local Transport Plan and local Urban Transport Plans.'*

7.3.12. Policy CS9: Management of Roads states that “All new development will be directed to the appropriate category of road in the road hierarchy based on its scale, traffic generation, safety impact, and environmental effect. The traffic generated from new development must be compatible with the location, design, and capacity of the current and future operation of the road hierarchy, taking into account any planned improvements and cumulative effects of incremental developments. Improvements to the network and all traffic management measures will be designed to channel long distance through traffic onto the motorway and primary roads (i.e., M1, M25, A5 and A41). In Hemel Hempstead road improvements will focus on relieving congestion in and around the Maylands Business Park, including the delivery of a new north-eastern relief route, and improving the capacity and safety of the Plough Roundabout. Elsewhere, small-scale improvements will be undertaken to tackle local environmental and safety problems. Other new road capacity will only be justified for local environmental, air quality (including any declared Air Quality Management Areas), safety reasons, or for accommodating local access requirements. Local road space will be shared and designed to allow the safe movement of all users. In villages and the countryside, special regard will be paid to the effect of new development and traffic on the safety and environmental character of country lanes.”

Saved Policy - St Albans District Local Plan Review 1994

7.3.13. Policy 34: Highways considerations in Development Control states that: “Development likely to generate a significant amount of traffic, or which involves the creation or improvement of an access onto the public highway, will not normally be permitted unless acceptable in terms of the following highway considerations:

- (i) *Road Safety. Particular requirements are adequate visibility, turning radii and provision for pedestrians and cyclists and for disabled and other disadvantaged people;*
- (ii) *Environmental impact of traffic, especially in residential areas;*
- (iii) *Road capacity, including present and predicted future year assessments;*
- (iv) *Road hierarchy. New roads shall be of a design appropriate to their position in the hierarchy. New accesses to primary roads and main distributor roads (see*

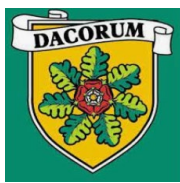


Figure 8) will normally be resisted, but where access is permitted a high standard of provision will be required;

(v) Car parking provision.

(vi) St. Albans City Centre restraint on development. See Policy 30;

(vii) Local rural roads. Particular regard will be had to increases in:

a) the risk of accidents, especially to pedestrians and cyclists;

b) the use of roads that are poor in terms of width, alignment or structural condition;

c) adverse impact on the local environment, either to the rural character of the road or residential properties alongside it. This particularly applies to recreational developments which could attract large numbers of visitors, even if only on one or two occasions a year.”

Assessment of Local Impacts

7.3.14. The Councils welcome the commitment of the applicant to minimise local construction traffic impacts where reasonably practicable using a variety of Management Plans including Construction Traffic Management Plan (CTMP) and Construction Workers Travel Plan (CWTP) and the establishment of a Traffic Management Working Group (TMWG), as a forum for technical engagement.

7.3.15. Paragraph 16.3 details that the CTMP provides the structure for the document that will be set out in a way in which the following will be managed to reduce the impact of construction traffic to include the following matters:

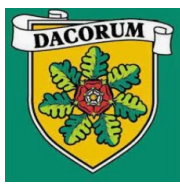
- a) highway safety;
- b) management of deliveries to the construction site;
- c) practices to reduce the number of construction vehicles movements;
- d) abnormal loads; and
- e) protection of the public highway.

7.3.16. However, the outline CTMP [PINS ref: APP-130] appears not to consider where construction delivery vehicles will wait off-site for their appointment on site, or to take breaks or end their daily driving hours, or even park overnight for an early morning delivery. There is a risk that the number of construction deliveries to the airport could lead to local impacts on laybys, truck stops and service areas being full of airport bound vehicles and that this may lead to it being more difficult for other businesses in Luton and the surrounding towns to have deliveries due to constraints on these rest areas.

7.3.17. In more general terms the Councils are not yet able to confirm whether these management plans and TMWG will be sufficient to minimise and mitigate local traffic impacts across Hertfordshire and would welcome further technical engagement in the content of the management plans and membership for all three Councils in the working group.



- 7.3.18. The Councils are of the view that some of the proposed mitigation measures in Hertfordshire are set out to a minimal level of detail or have been designed without appropriate consideration of improvements for active and sustainable travel modes. The submitted drawings do not appear to have considered the vertical dimension within the design, and there are locations where gradients or other factors such as forward visibility may mean that the scheme cannot operate safely or be constructed to meet design standards.
- 7.3.19. The Councils welcome the agreement that public access will be maintained along existing highways and rights of way, where reasonably practicable, and appropriate measures will be implemented to ensure that the local community, economy, and transport networks can continue to operate effectively. This should be a key element of the design during both construction and operation and the Councils welcome the opportunity to be involved in further discussions on this matter.
- 7.3.20. Section 10.5.1 of the ES states that states that *“A comprehensive approach to modelling the impact of the Proposed Development has been carried out, including strategic modelling, Vissim modelling and local junction capacity assessments. This modelling approach includes consideration of growth including committed developments and planned transport schemes. The modelling demonstrates that the impacts from the Proposed Development and mitigations included in the scheme at Assessment Phase 1, 2a and 2b (full development) would not have a significant adverse impact on the operation of the highway network in the local or wider area.”*
- 7.3.21. There are still likely to be local impacts where this is not reasonably practicable, alternative measures will be identified to maintain public access, especially for pedestrians and cyclists, to routes in the vicinity of the sites. These appear not to have been identified within the existing application documents. The impact of road-based construction traffic will be reduced by implementing and monitoring clear controls on vehicle types, hours of site operation, parking, and routes for large goods vehicles.
- 7.3.22. The Councils are concerned that almost no detail is provided on off-site parking, walking, cycling or public transport measures in Hertfordshire or how these initiatives would be funded through a funding strategy. These modes of transport are vital elements of all future developments and without adequate consideration in this DCO application could create significant surface access and congestion local impacts which will have detrimental air quality and noise impacts on local residents and the business community. The Councils recognise that there is an opportunity to maximise use of Luton Airport Parkway and the DART connection to the airport by providing improved links by bus / coach and cycling to Luton Airport Parkway. Where they do exist, the limited references to public transport have a heavy reliance on rail. The Councils are



concerned that little consideration has been given to the integration of rail access to London Luton Airport and the wider rail network. This could lead to congestion and overcrowding of services.

7.3.23. The Councils note that some of the existing highway improvements are subject to further design development. The Councils also believe that the Proposed Development fails to comply with local planning policies. For example, the Transport Assessment included three drawings of junction improvements in Hitchin. At present, the Councils are concerned that these mitigation measures are modelled capacity improvements that do not comply with the objectives of the Local Transport Plan 4 (LTP4) or our aspirations in local strategy documents such as the North Central Growth and Transport Plan and North Herts LCWIP. In Hertfordshire County Council's opinion, the proposed mitigations do not offer meaningful improvements for active and sustainable modes of travel. Designs should be updated to include meaningful provision for pedestrians, cyclists, and lock in any additional capacity for public transport. The Councils seek to be involved in further discussions on this matter, to ensure that the updated designs comply with adopted and saved policies, including LTP4.

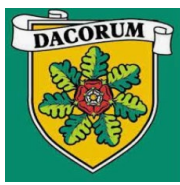
Adequacy of Application/dDCO

Assessment and Modelling

7.3.24. Due to the impacts of the Covid-19 Pandemic the Baseline traffic modelling information used to inform the Proposed Development is 7 years old. The Councils are concerned that this information is too outdated to provide an accurate assessment of Traffic and Transport (T&T) impacts. The Councils are therefore unable to confirm whether or not the T&T aspects of the Proposed Development would comply with planning policies.

Conclusion

7.3.25. It is therefore the view of the Councils that the application has the potential to comply with national and local planning policies relating to Traffic and Transport matters but currently falls short of sufficient evidence to confirm this and how the will be implemented effectively to avoid additional surface transport inputs. In order to ensure that the application complies with these policies, minimises local impacts and where avoidance of impacts is not possible adequate mitigation is proposed, the Councils request further engagement on the DCO application process.



7.4. Air Quality

7.4.1. This section considers general Air Quality local impacts and impacts on ammonia and nitrogen deposition levels at habitat sites. A separate section later in the document considers Air Quality Implications in relation to the GCG Framework (see below).

Relevant local policies

North Hertfordshire Local Plan

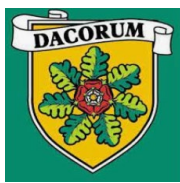
7.4.2. Strategic Objective ECON7: aims to *“improve access opportunities, minimise the need to travel, and encourage journeys to be made by sustainable means of transport to ease congestion, reduce carbon emissions and the impacts on air quality management areas.”*

7.4.3. Policy D4: Air quality: states that *“Planning permission will be granted provided that development proposals:*

- a) Give consideration to the potential or actual impact on local air quality, both during the demolition/ construction phase and as a result of its final occupation and use;*
- b) Propose appropriate levels of mitigation to minimise emissions to the atmosphere and their potential effects upon health and the local environment;*
- c) Carry out air pollution impact assessments, where required, to determine the impact on local air quality of the development. Where an air quality impact assessment demonstrates that a development is unacceptable from a local air quality perspective the development will be refused.”*

7.4.4. It goes on to state that *“Where air pollution impact assessments are not required there will still be a requirement on developers to provide appropriate levels of mitigation to address emissions of pollutants to the atmosphere.”*

7.4.5. In addition, the North Herts Council Local Plan contains the following text in support of Policy D4: *“Two of the main roads that cross the District do so on a north – south axis: the A1(M) and A10. Another main road is the A505 that traverses the District on a southwest – northeast axis. It is the A505 that is currently directly associated with air quality concerns because it passes through the four main population centres of the District namely Hitchin, Letchworth Garden City, Baldock and Royston. Of particular concern is the area in the south of Hitchin. Notably Stevenage Road (A602) near the Hitchin Hill roundabout, which has been designated an Air Quality Management Area (AQMA) and the Payne’s Park roundabout at the A602 junction with the A505 which was designated an AQMA in 2016.”* The policy addresses the protection of the health of the residents of proposed developments, as well as the protection of the residents of existing properties particularly, although not



exclusively, those that live in close proximity to the district's roads. In addition to the air quality problems identified in Hitchin that are associated with elevated nitrogen dioxide (NO₂), levels of NO₂ are close to exceeding a national air quality objective around the A505 in the Hitchin Street / Whitehorse Street area of Baldock. Furthermore, particulate matter air pollution is a public health concern, which is reflected by the presence of a national air quality objective and a public health outcome indicator."

Dacorum Borough Council Core Strategy (2006-2031)

7.4.6. The relevant Strategic Objective no. 12 seeks to minimise the effects of pollution on people and the environment.

7.4.7. Policy CS8: Sustainable Transport states that *'all new development will contribute to a well-connected and accessible transport system whose principles are to (f) improve road safety and air quality'*.

7.4.8. Policy CS32: Air, Soil and Water Quality states that *'Any development proposals which would cause harm from a significant increase in pollution (into the air, soil, or any water body) by virtue of the emissions of fumes, particles, effluent, radiation, smell, heat, light, noise, or noxious substances, will not be permitted.'*

Saved Policy - Welwyn Hatfield District Plan 2005

7.4.9. *Policy R19: Noise and Vibration advises that:*

'Proposals will be refused if the development is likely:

- i. To generate unacceptable noise or vibration for other land uses; or*
- ii. To be affected by unacceptable noise or vibration from other land uses.*

Planning permission will be granted where appropriate conditions may be imposed to ensure either:

- iii. An adequate level of protection against noise or vibration; or*
- iv. That the level of noise emitted can be controlled.*

Proposals should be in accordance with the Supplementary Design Guidance.'

Assessment of Local Impacts

7.4.10. In order for the Councils to fully understand the Air Quality impacts of the proposed scheme, the Councils are seeking clarification that the assessment methodology and tools have been agreed with Natural England, particularly in regard to ammonia emissions and nitrogen deposit impacts within Hertfordshire. Furthermore, the Councils consider that the proposed use of *'AQMesh or equivalent'* is not sufficient to demonstrate compliance with Government standards as such indicative methods (even with MCERTS

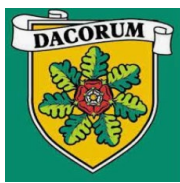


certification) do not meet Defra reference method equivalence criteria. It is the Council's view that the Palas Fidas 200, which meets the Defra reference method equivalence criteria and enables simultaneous measurement of PM10 and PM2.5, would be suitable for this purpose.

- 7.4.11. With substantial evidence accumulating linking finer fractions of particulate matter (especially PM2.5 and smaller) to chronic and acute health conditions, there is a need to have short-term thresholds to protect human health.
- 7.4.12. There is concern regarding the National Highways method of determining the impacts on ammonia and nitrogen deposition levels at designated habitat sites due to road traffic emissions, in-particular the lack of transparency of this method and the question of acceptance by Natural England. However, the nearest Herts SSSIs to the airport are 6 and 9 km to the east (Wain Wood, Knebworth Woods) and Ashridge is located 14km away to the South west. These locations are not associated with any major routes to the airport. Based on this information submitted to date and notwithstanding aircraft pollution if any is identified. The Councils do not currently expect the increased traffic emissions to be significant enough to negatively impact HRAs but would welcome further discussions through the application process.
- 7.4.13. In conclusion the Councils are of the view that there are likely to be local impacts in relation to Air Quality and odour, which generates issues within Hertfordshire. These will require appropriate Requirements to ensure that they are suitably mitigated. The Councils wish to seek assurance that assessment methodologies, especially in relation to ammonia and nitrogen deposition levels at designated sites due to road traffic emissions are in accordance with acknowledged methodologies and have been agreed with the Environment Agency.

Adequacy of Application/dDCO

- 7.4.14. The relevant DCO requirements include Requirement 8(2)(h) on the Dust Management Plan and Requirement 31 (Operational Air Quality Plan). The Outline dust management plan and operational air quality plan have not been reviewed, but the Councils accept that the requirements require the submission of plans for written approval in due course and are content for that process to manage any detailed issues/content.
- 7.4.15. The Air Quality Monitoring Plan is the subject of ongoing technical discussions between the applicant and the Councils in relation to the inclusion of 24-hour mean PM2.5 thresholds to better address the matter of acute human health impacts and enable a more proactive approach to emissions



management – and the use of continuous monitoring using a method that meets the Defra reference method equivalence criteria for PM10 and PM2.5.

7.5. Noise and Vibration

Relevant local policies

North Hertfordshire Local Plan

7.5.1. Strategic Objective ENV3: promotes “*the Protection, maintenance and enhancement of the District’s historic and natural environment, its cultural assets and network of open spaces, urban and rural landscapes.*”

7.5.2. Policy SP1: Sustainable development in North Hertfordshire part c) refers to “*the grant planning permission for proposals that, individually or cumulatively amongst other criteria (iv). protect key elements of North Hertfordshire’s environment including biodiversity, important landscapes, heritage assets and green infrastructure (including the water environment)*”.

Dacorum Core Strategy (2006-2031)

7.5.3. Strategic Objective 15 aims to minimise the effects of pollution on people and the environment.

7.5.4. Policy CS32: Air, Soil and Water Quality states that ‘*...Any development proposals which would cause harm from a significant increase in pollution (into the air, soil, or any water body) by virtue of the emissions of fumes, particles, effluent, radiation, smell, heat, light, noise, or noxious substances, will not be permitted.*’

Saved Policy – Welwyn Hatfield District Plan 2005

7.5.5. Policy R19: Noise and Vibration Pollution advises that:

Proposals will be refused if the development is likely:

- iii. To generate unacceptable noise or vibration for other land uses; or*
 - iv. To be affected by unacceptable noise or vibration from other land uses.*
- Planning permission will be granted where appropriate conditions may be imposed to ensure either:*
- v. An adequate level of protection against noise or vibration; or*
 - vi. That the level of noise emitted can be controlled.*

Proposals should be in accordance with the Supplementary Design Guidance.’

Saved Policy – Stevenage Borough Local Plan 2011-2031



7.5.6. Policy SP2: Sustainable development in Stevenage states that: “*Planning permission will be granted where proposals demonstrate (as applicable), how they will:*

m. Avoid or prevent harm from flood risk, contamination and pollution;”

7.5.7. Policy SP11: Climate Change, flooding and pollution confirms that “*We will work to limit, mitigate and adapt to the negative impacts of climate change, flood risk and all forms of pollution. We will: a. ensure new development minimises and mitigates its impact on the environment and climate change by considering matters relating (but not necessarily limited) to the provision of green space, renewable energy, energy efficiency, water consumption, drainage, waste, pollution, contamination and sustainable construction techniques; b. ensure new development reduces or mitigates against flood risk and pollution; c. take a sequential approach to development in all areas of flood risk; and d. protect existing flood storage reservoirs and require new flood storage reservoirs to be provided where appropriate.*”

Saved Policy – St Albans District Local Plan Review 1994

7.5.8. Policy Intention 9: London Luton Airport and Hatfield Aerodrome provides the following text: “***The District Council will oppose proposals to expand London Luton Airport or Hatfield Aerodrome if this would result in the District being affected by:***

- (i) aircraft noise from London Luton Airport above 1984 levels, or increased noise from Hatfield Aerodrome, particularly at night;*
- (ii) pressure for housing development in the Green Belt;*
- (iii) serious labour shortage problems; (iv) further pressure for major road building beyond existing proposals and current timescales.”*

Local Impacts

Construction

7.5.9. The construction study area only extends into the North Hertfordshire area minorly and does not enter Dacorum. Within North Hertfordshire there are only a small number of properties covered by the study area, being those within Breachwood Green and Wandon End. These can be seen in Figure 16.2 of 5.01 Chapter 16 Noise and Vibration [PINS ref: AS-080].

7.5.10. There are not considered to be significant noise impacts within Hertfordshire as a consequence of construction.

Operational

Ground, Surface Access, and Fixed Plant Noise



7.5.11. The noise levels from sources associated with ground noise, surface access and fixed plant mechanical items are not expected to have a significant impact within Hertfordshire in any operational phase.

7.5.12. References within this section are drawn from 5.01 Chapter 16: Noise and Vibration [PINS ref: AS-080] unless otherwise stated.

Air Noise

7.5.13. Noise from airborne aircraft affects Hertfordshire, including North Hertfordshire and Dacorum. The application does not disaggregate the assessment of noise impacts into local authority administrative boundaries, as is normal. It is therefore not possible to define the specific areas and numbers of people/properties within Hertfordshire impacted.

7.5.14. Figures 16.19 and 16.20 [PINS ref: AS-106] show the areas within Hertfordshire which are overflowed during the day and night. There are no changes to flight paths proposed within the application.

Phase 1

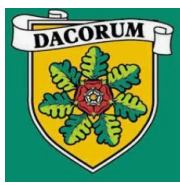
7.5.15. During the daytime there is an additional area of 6.8km subject to LOAEL, 0.7km subject to SOAEL and 0.1km subject to UAEL. An additional 6,600 people are introduced to noise levels above LOAEL and below SOAEL and an additional 400 people above SOAEL and below UAEL.

7.5.16. During the night-time there is an additional area of 14.7km subject to LOAEL, 2.7km subject to SOAEL and 0.3km subject to UAEL. An additional 13,700 people are introduced to noise levels above LOAEL and below SOAEL and an additional 1,700 people above SOAEL and below UAEL.

7.5.17. Communities within Hertfordshire are included in Table 16.37: Assessment Phase 1 2027 Community areas that experience continuing exposure above the air noise SOAEL. Residents within both Dacorum, North Hertfordshire and the wider Hertfordshire area will be among those moving into the LOAEL and residents in North Hertfordshire among those moving into the SOAEL. No residents are within the UAEL.

7.5.18. The absolute change in air noise levels proposed are set out in Table 16.38: Assessment Phase 1 2027 Summary of DS-DM air noise change. These changes are also displayed visually in Figures 16.17a and 16.18a.

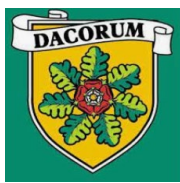
7.5.19. Dacorum, North Hertfordshire and Hertfordshire residents would be subject to an increase in the daytime between 0.1 and 0.9 dB LAeq,16hour and in the night-time between 1.0 and 1.9 dB LAeq,8hour (save for a small area to the east where the increase is up to 0.9 dB LAeq,8hour).



- 7.5.20. Table 16.39: Assessment Phase 1 2027 Community areas that experience an adverse likely significant effect due to air noise increases includes community areas in Hertfordshire.
- 7.5.21. N65 metrics increase by approximately 6-12% during the day and the N60 metrics increase by approximately 23-33% during the night. Overflight metrics increase by approximately 10-12% during the day and 25-26% during the night. This is stated in section 16.9.101.
- 7.5.22. This information is displayed spatially in Figures 16.13 through 16.26 of the ES.

Phase 2a

- 7.5.23. During the daytime an additional area of 10.7km subject to LOAEL, 1.1km subject to SOAEL and 0.2km subject to UAEL. An additional 10,700 people are introduced to noise levels above LOAEL and below SOAEL and 200 people above SOAEL and below UAEL.
- 7.5.24. During the night-time an additional 15.0km are subject to LOAEL, 2.6km subject to SOAEL and 0.3km subject to UAEL. An additional 19,500 people are introduced to noise levels above LOAEL and below SOAEL and 1,100 people above SOAEL and below UAEL.
- 7.5.25. Table 16.44: Assessment Phase 2a 2039 Community areas that experience continuing exposure above the air noise SOAEL include communities within Hertfordshire. Residents within Dacorum, North Hertfordshire and the wider Hertfordshire area will be among those moving into the LOAEL and residents in North Hertfordshire among those moving into the SOAEL. No residents are within the UAEL.
- 7.5.26. The absolute change in air noise levels proposed are set out in Table 16.45: Assessment Phase 2a 2039 Summary of DS-DM air noise change. These changes are also displayed visually in Figures 16.43a and 16.44a.
- 7.5.27. Dacorum, North Hertfordshire and Hertfordshire residents would be subject to an increase between 1.0 and 1.9 dB LAeq,T in both the daytime and night-time.
- 7.5.28. Table 16.46: Assessment Phase 2a 2039 identifies community areas that experience an adverse likely significant effect due to air noise increases and these include community areas in Hertfordshire.
- 7.5.29. N65 metrics increase by approximately 25-32% during the day and the N60 metrics increase by approximately 44-54% during the night. Overflight



metrics increase by approximately 13-32% during the day and 48-50% during the night. This is stated in section 16.9.125.

7.5.30. This information is displayed spatially in Figures 16.39 through 16.50 of the ES.

Phase 2b

7.5.31. During the daytime there is an additional area of 17.1km subject to LOAEL, 1.7km subject to SOAEL and 0.4km subject to UAEL. An additional 18,300 people are introduced to noise levels above LOAEL and below SOAEL and an additional 500 people above SOAEL and below UAEL.

7.5.32. During the night-time there is an additional area of 23.6km subject to LOAEL, 4.2km subject to SOAEL and 0.5km subject to UAEL. An additional 27,150 people are introduced to noise levels above LOAEL and below SOAEL and an additional 1,900 people above SOAEL and below UAEL.

7.5.33. Communities within Hertfordshire are included in Table 16.51: Assessment Phase 2b 2043 Community areas that experience continuing exposure above the air noise SOAEL. Residents within Dacorum, North Hertfordshire and the wider Hertfordshire area will be among those moving into the LOAEL and residents in North Hertfordshire among those moving into the SOAEL. No residents are within the UAEL.

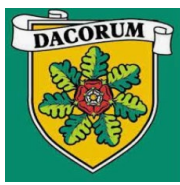
7.5.34. The absolute changes in air noise levels proposed are set out in Table 16.52: Assessment Phase 2b 2043 Summary of DS-DM air noise change. These changes are also displayed visually in Figures 16.67a and 16.68a.

7.5.35. Dacorum, North Hertfordshire and Hertfordshire residents would be subject to an increase between 1.0 and 2.9 dB LAeq,T in both the day and the night-time.

7.5.36. Table 16.53: Assessment Phase 2b 2043 Community areas that experience an adverse likely significant effect due to air noise increases includes community areas in Hertfordshire.

7.5.37. N65 metrics increase by approximately 49-53% during the day and the N60 metrics increase by approximately 70-81% during the night. Overflight metrics increase by approximately 13-51% during the day and 74-75% during the night.

7.5.38. This information is displayed spatially in Figures 16.63 through 16.74.



7.5.39. The impact of the application on Hertfordshire would be negative, as air noise levels rise above those currently permitted in future years and do not reduce back below these. The impacts are proposed to be controlled by the noise element of the Green Controlled Growth scheme, which the Council has significant concerns over, as set out in the requirements section below and in the Written Representations document.

7.5.40. The proposed Noise Insulation Scheme is positive. The existing scheme covers no residences in Dacorum and only a handful in North Hertfordshire, as can be seen on Figure A1.4 within 7.10 Draft Compensation Policies, Measures and Community First – Appendix A (part 2 of 2). The proposed scheme would see a greater number of properties become eligible, as well as increasing financial compensation for already eligible properties. These newly eligible properties are primarily in the east of Markyate in Dacorum and Breachwood Green in North Hertfordshire, stretching across to the eastern boundary with Stevenage.

Adequacy of Application/dDCO

7.5.41. There are no development plan policies directly relating to noise resulting from London Luton Airport. Inasmuch as the development plan seeks to restrict adverse environmental impacts, the proposal is considered not to be compliant.

7.5.42. The application contains no requirements or DCO obligations for the following items, which are existing planning noise controls at Luton Airport:

- Night-time phasing out (and remaining out) of aircraft with a QC value greater than 1 on either departure or arrival;
- Total annual QC movements of no more than 3,500, reducing to 2,800 from 2028;
- Annual movement limit of 7,000 in the early morning shoulder period;
- Progressively reducing Noise Violation Limits.

7.5.43. The above are all set out in Condition 9 of Planning Permission 15/00950/VARCON (dated 13th October 2017) and were also set out as requirements of the Noise Envelope by Host Councils in the final Noise Envelope Design Group report (Annex A of 5.02 Appendix 16.2 Operational Noise Management Explanatory Note). These controls would be appropriate requirements, are reasonable and must be maintained.

7.5.44. The application proposes to now include the option for noise modelling and reporting to dispense late-running movements, as is allowed at the designated airports. This is set out in C4.1.3 of 7.08 Green Controlled Growth Framework Appendix C – Aircraft Noise Monitoring Plan. The control of not allowing dispensation is an appropriate requirement and should be maintained.



7.5.45. The noise documents do not, in our view, present a case that complies with UK aviation noise policy or emerging policy, which is equally important when looking at timeframes well into the future. Assessments for various sources of noise are not portrayed consistently or transparently. The air noise assessment, which is typically the most important environmental issue for local communities, seeks to present a case of noise reduction over time through focusing on the wrong test and use of a baseline that was not in compliance with extant planning conditions. The incorrect methodology allows claims of noise reduction, rather than the clear noise increase brought about by the proposed development compared to the do minimum case in all future years. This key indicator of the likely scale of impact is only presented as a sensitivity case.

7.6. Economics and Employment

Relevant local policies

7.6.1. There are no development plan or other policies relating directly to the socio-economic implications of growth at London Luton Airport and so the issue of development plan/policy compliance does not arise. However, the overall tenor of policies within the development plan are broadly supportive of economic growth, job creation, better skilled jobs/workforce, etc and the application would generate these.

Local Impacts

7.6.2. The need case and Chapter 11 of the ES and their associated appendices set out the expected socio-economic benefits of the proposal. *'Table 11.19: Economics and Employment [PINS Ref: APP-037] assessment summary'* of Chapter 11 contains a summary of the expected construction and operational impacts of the proposal covering a range of metrics across the Three Counties, of which Hertfordshire is a part. The impacts of the proposal are judged to be generally beneficial and, in most cases, majorly beneficial. As London Luton Airport and the majority of the proposed development fall outside Hertfordshire, only a proportion of the envisaged socio-economic benefits will be recognised in Hertfordshire.

7.6.3. Whilst the Councils are in on-going technical discussions with the applicant in relation to the methodology and conclusions of the economic assessment to inform the remainder of the Examination process, that process is unlikely to substantively change the socio-economic findings of the need case and Environmental Statement.

7.6.4. In general terms the socio-economic impacts of the Proposed Development are likely to be positive. There are, however, risks that the full extent of these



benefits to Hertfordshire are exaggerated due to the location of the development outside Hertfordshire and if the need for the Proposed Development is less than anticipated.

7.6.5. There are no articles or requirements relating to socio-economic issues. The Planning Statement [APP-7.01] refers to an Employment and Training Strategy (ETS). This sets out the strengths and needs of the local area around skills and training, the job opportunities expected to be created through expansion, and the goals and actions proposed to prepare the community to take advantage of these opportunities. The implementation of the ETS will be secured through section 106 obligation(s).

7.7. Green Controlled Growth (GCG) Framework

Local Policies

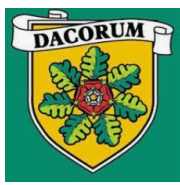
7.7.1. There are no local policies specifically related to GCG. The Green Controlled Growth Framework is an initiative from London Luton Airport have set out their proposals in 'Volume 7 Other Documents' [PINS ref: APP-218]. As such there are no policies that specifically refer to GCG Framework in the North Herts or Dacorum Local Plans. However, there are a number of topic specific policies referred to elsewhere in the document that are related.

Key Local Issues

7.7.2. Green Controlled Growth will place controls on four key categories of environmental effect: air quality, greenhouse gas emissions, aircraft noise, and surface access. These topics have been selected as the areas where environmental effects will continue to change over time, as passenger numbers grow, and technology improves.

7.7.3. The GCG Framework only applies to any growth that occurs at the airport beyond the consented baseline position (i.e., the current 18 mppa passenger cap, or the proposed 19 mppa passenger cap, pending the outcome of the planning inquiry to determine the called-in planning application). This is triggered by notice under Article 44(1) of the Draft DCO [TR020001/APP/2.01] being served. When the notice is served under Article 44(1) of the Draft DCO the existing planning conditions will cease to apply and the GCG Framework will be required to be implemented as per the provisions of the DCO.

7.7.4. It is imperative that the decision to grow is not driven simply by demand and economic benefits. There is a risk of benefits being over estimated or an over emphasis of benefits to Luton Borough Council as opposed to within the administrative boundaries of Hertfordshire. Adverse environmental effects carry full weight in the decision-making process as well as the benefits. This includes



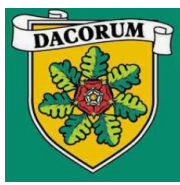
consideration of mitigation, including through Requirements, s106 Obligations and the Green Controlled Growth (GCG) Framework.

- 7.7.5. The management of the GCG Framework is critical in determining the type and extent of local impacts. The effective control of environmental impacts is imperative for the Councils, and the Councils do not consider that that approach taken is sufficiently comprehensive or robust.
- 7.7.6. Consequently, this could lead to significant impacts occurring well in advance of actions being taken to reverse the harm that may have been caused, and which would be continuing before mitigation is agreed and put in place, to both reverse that harm and prevent future harm from occurring.
- 7.7.7. Monitoring of environmental impacts pursuant to the DCO is relevant to the outcomes and/or mitigation being reported or proposed in the Monitoring Report and/or any Level 2 Plan or Mitigation Plan, such monitoring should be provided to the Technical Panel and ESG along with the relevant Monitoring Report, Level 2 Plan or Mitigation Plan, to ensure transparency and ensure a complete and comprehensive consideration of the issues in the relevant Plan.

Aircraft Noise – Thresholds and Limits

- 7.7.8. With regards to noise, the GCG Framework does not contain sufficient noise controls to be demonstrably effective. The current and necessary requirements are set out in the LIR, which would enable year-round control.
- 7.7.9. In its current form, the GCG Framework is, at best, capable of bringing London Luton Airport up to the minimum levels of other UK airports over the summer 92-day period that the noise contours are assessed over, as no other UK airport has breached its noise contours in successive years with no contour reduction strategy.
- 7.7.10. The introduction of Thresholds is in principle a good idea, but these are set at arbitrary points that may not be effective at preventing a Limit Breach.
- 7.7.11. Ultimately, the remedy available to the local community in the event of future breaches of the proposed Thresholds and Limits remains Statutory Enforcement by Luton Council. This is no different a position than that applicable in the years leading up to and containing breaches.
- 7.7.12. The use of Thresholds and Limits for noise affect all three Councils, and it is considered highly unlikely that a breach of the Limits would lead to a noise impact in only one Council area, but rather would impact on all those communities identified to be affected by aircraft noise in the LIR.

Air Quality – Thresholds and Limits



7.7.13. The Councils welcome the principles of Green Controlled Growth in relation to air quality, however, however are concerned about the adequacy of the Air Quality Monitoring Plan and wish to seek clarification on certain issues that might affect Hertfordshire.

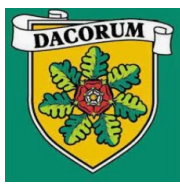
7.7.14. The Thresholds and Limits for air quality are for annual mean concentrations only. Whilst this addresses compliance with Government standards for annual mean pollutant concentrations it does not support a proactive approach to emissions management which should take into account short-term pollution events. It also does not serve to help protect people from acute health conditions such as asthma that can be brought on by short-term air pollution episodes - and could be associated with emissions from airport related sources (LTO, airside, landside and roads carrying airport related traffic). As such, the proposed Air Quality Monitoring Plan is inadequate.

7.7.15. The proposed use of '*AQMesh or equivalent*' is not sufficient to demonstrate compliance with Government standards as such indicative methods (even with MCERTS certification) do not meet DEFRA reference method equivalence criteria. Although at present there are no Government standards to address short-term concentrations of PM_{2.5} (or finer fractions), the World Health Organisation (WHO) gives interim targets and guideline levels 24-hour mean PM_{2.5} which could be adopted now. As the Government has recently legislated a 10µg/m³ target (for 2040) for annual mean PM_{2.5}, which is the same threshold as the WHO interim target 4, with a Government interim target of 12µg/m³ (for 2028), it would seem appropriate to set thresholds for 24-hour mean PM_{2.5} concentrations based at least on the WHO interim target 3. This WHO target is 37.5µg/m³ not to be exceeded more than 3-4 days per year. As the corresponding WHO interim target 3 for annual mean PM_{2.5} is 15µg/m³, this is reasonably in-line with the Government's interim annual mean target. A 24-hour mean threshold, coupled with attention to air pollution forecasts, would enable a more proactive approach to emissions management than would be possible if only annual mean thresholds are used.

7.7.16. Additionally, there is no mention of annual reporting of airport related emissions of local air pollutants based on recorded activity data. This would assist the Applicant in demonstrating the effectiveness of environmental management in reducing emissions over time.

Greenhouse Gases (GHGs) – Thresholds and Limits

7.7.17. Section 5.1 outlines Limits and Thresholds relating to GHG emissions associated with the activities described in this section (notably excluding Aviation emissions). It is noted that these Limits will be reviewed to align with the Jet Zero Strategy ambition of zero-emissions airport operations by 2040.



7.7.18. Given that these Limits relate to operations and activities within the local Council area(s) and they are therefore indirectly connected to local Councils climate action plans and net zero trajectories, the GCG would benefit from the addition of confirmation that the limits included will not be increased (i.e. allowing more GHG emissions), regardless of revisions to the Jet Zero Strategy or updated policy or guidance. If this cannot be confirmed, explanation as to how the GCG Framework will ensure alignment with local authority net zero trajectories would be welcomed.

Surface Access – Thresholds and Limits

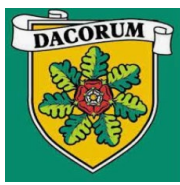
7.7.19. Time lag between the detection of a breach in surface access controls and the halting of airport growth needs to be better understood in terms of the resulting temporary further potential increase beyond the limit after the breach has been identified through the annual monitoring and the timescale for amending the slot allocations has been actioned. It is understood there could be a two-summer season lag between a breach being detected and action being taken.

7.7.20. The GCG approach in respect of surface access is generally welcomed at this stage, but the Councils need to understand more of the detail in terms of what this will mean in real terms within their authority areas. When the traffic modelling is updated and has been reviewed and confirmed the Councils will need to understand the potential maximum impacts on the Hertfordshire road network and to consider the potential localised impacts in detail.

7.7.21. The data collection for monitoring the GCG is based on annual Civil Aviation Authority (CAA) passenger surveys which will not necessarily capture the worst encountered situation and impacts on the local road network during the year. Monthly or continuous automated monitoring and reporting would help to identify exceedances in a timelier manner. The Limits and Thresholds are based on overall airport passenger mode share targets alone, averaged over the whole catchment area, which will not reflect regional variations, which may include a higher-than-average increase in motor traffic within the Hertfordshire highway network. There are also concerns about whether the selection basis and sample rate for the survey provides sufficiently robust and unbiased data.

7.7.22. Annual data collection will also be taking place in relation to the TRIMMA and the Framework Travel Plan (FTP). This localised monitoring is intended to identify where additional local mitigation is needed. However, the mechanism for triggering, funding, and delivering additional mitigation is unclear, as is the overall budget for future mitigation measures. The Councils expect the Airport Operator to provide local mitigation improvements through the TRIMMA and FTP even if the GCG monitoring demonstrates that London Luton Airport is operating within the GCG Thresholds and Limits.

Local Impacts



7.7.23. It is understood that the aim of the Applicant is for the GCG Framework and other operational requirements to regulate operations and capacity at the Airport through the DCO. As set out below in sections 9 and 10, the Councils have a number of concerns in relation to the GCG Framework as it currently stands. These concerns will need to be settled before the Council can be satisfied with the removal of the existing passenger cap falling away.

7.7.24. If the Applicant wishes to proceed in this way, the dDCO must contain a comprehensive set of controls, at least equivalent in effect to those conditions contained in the LLAOL Permission and associated planning obligation(s);

7.7.25. It must also be clear how the GCG Framework and other restrictions will link to the Airport operations as they sit today. This is because the various obligations in the dDCO which prevent operations until certain measures are in place (including operational mitigation in Part 4 of Schedule 2 to the dDCO) only link to the operations of the 'authorised development' which, as defined in article 2, is the Development authorised by the dDCO (i.e. new works) as opposed to pre-existing works. It therefore appears to the Councils that, in theory, the Applicant could serve notice under article 45 of the dDCO and operate the existing works without any/sufficient controls being in place (as those under the LLAOL Permission would be unenforceable). This appears to be a fundamental flaw in the proposals.

7.8. Community and Health

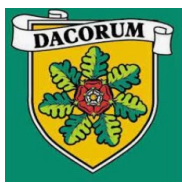
7.8.1. This section will cover local impacts relating to Health and Community and the Community First Fund.

Relevant local policies

7.8.2. There are not considered to be any directly relevant development plan policies. However, the following extracts provide an indication of pockets of deprivation that prevail within the district and borough of North Hertfordshire and Dacorum.

North Hertfordshire Local Plan

7.8.3. The Economic Activity and Inactivity Chapter of the Local Plan states that "More than 8 in 10 (87.6%) of North Hertfordshire's 16–64-year-olds are economically active (in or seeking employment) compared to a national figure of 79%. The unemployment rate in North Hertfordshire is 2.8%; this is below the East of England figure (3.6%) and below the national rate (4.2%). Approximately 1 in 5 (12.4%) of North Hertfordshire's 16–64-year-olds are economically inactive."



7.8.4. It goes on to state that: *“Deprivation - According to the 2019 Index of Multiple Deprivation, North Hertfordshire is relatively affluent compared to other local authority areas. The District ranks 269th out of 317 local authority areas in England (1 being the most deprived). None of the District’s population lives in areas within the bottom 10% of Super Output Areas (SOA) nationally, i.e. in the most deprived parts of the country. North Hertfordshire does however have five areas in the next two cohorts, i.e. those which are in the top 30% are seen as being most deprived, this includes one area in Hitchin and four in Letchworth Garden City.”*

7.8.5. Section 2.72 states that: *“The District is generally prosperous with lower levels of unemployment than the national average, and some areas of North Hertfordshire are amongst the most deprived in Hertfordshire. There is a need for job growth to continue to support the local economy and meet the needs of a growing population.”*

Dacorum Core Strategy

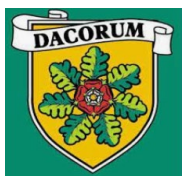
7.8.6. Paragraph 3.17 states that: *“The 2010 Index of Multiple Deprivation ranks the area as only the 266th most deprived district out of 326 Councils. Although overall deprivation levels are generally low, there are pockets of deprivation. The least deprived wards tend to be located in the western half of the borough (see Figure 6). The most deprived wards in the borough are all located at Hemel Hempstead, underlying the need for social and economic regeneration initiatives to be focussed upon the town.”*

Local Impacts

7.8.7. It is anticipated that the Proposed Development will create adverse health and wellbeing effects during construction, so the Councils agree with the principle of a Community Engagement Plan. The Councils are currently reviewing this document and would welcome the opportunity to work with the Applicant to agree its content.

7.8.8. Community impacts include, but are not limited to dust and noise emissions as detailed in Chapter 7 of the Environmental Statement (Air Quality) [PINS ref: AS-027] and Chapter 16 (Noise and vibration) [PINS ref: AS-080]; visual disturbance as detailed in Chapter 13 (Landscape and visual) [PINS ref: AS-079] and light intrusion as detailed in Chapter 5 (Approach to the Assessment) [PINS ref: AS-075]; construction vehicle movements and closures and changes to PRoW; access to the existing Wigmore Valley Park until the replacement open space is completed and accessible to the public.

7.8.9. It is anticipated that the Code of Construction Practice (CoCP) will mitigate mental wellbeing through a proposed community engagement strategy during construction stage resulting in a neutral impact of the Proposed Development



during construction. However, there is likely to be a negative impact on the health and mental wellbeing of residents during the operation of the Proposed Development. The Councils recommend that additional Requirements are provided to mitigate this negative impact.

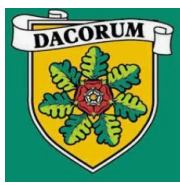
Community First Fund

7.8.10. The Community First Fund is eligible for registered charities, community groups with their own bank account, parish councils and town councils, for projects supporting either decarbonisation or tackling deprivation, with a maximum level of any single grant award will be limited to £25,000 in any one grant year. The Councils appreciate that the eligible area for the Fund is considered by the Applicant to be 'large enough to be confident that all Community First funds should be capable of being used but not so wide that it dilutes the effectiveness of the fund in meeting its objectives'. However, at full capacity 560 grants per annum would be required to ensure the Fund reached its full potential, on the assumption all grants sought the maximum allowable amount, which is highly unlikely to be the case in practice. There remains some uncertainty as to the capability of eligible organisations to fully utilise the Fund in any one given year or on an ongoing basis, particularly given its narrow focus upon decarbonisation/deprivation. It would be helpful if the examination process might be provided with some historic patterns of grant funding to provide some context for the scale of historic take-up of community funding (some evidence for which was presented to participants at the Open Floor Hearings). Notwithstanding the commitment to regular review (not exceeding 5 years) in Section 11 of 7.10 Draft Compensation Policies, Measures and Community First Revision 1 [PINS ref: AS-128], it might be advantageous if the scheme could be designed for flexibility at the outset – for example, to enable uplift to the maximum £25,000, to shift funding between the currently proposed 60/40 (Luton / elsewhere) split where there would be an annual / ongoing deficit, to enable underspend to be rolled forward for future use, and so on.

7.8.11. The extent of and precise positive impacts of this initiative will depend upon the implementation methodology. The Council's would like to be involved in the development of the implementation of this funding strategy to ensure that it is implemented in line with its objectives and Hertfordshire experiences its share of the benefits.

7.8.12. The community impacts are considered to be negative. However, it is anticipated that delivery of the Community First fund in consultation with the Councils should help to mitigate that impact, subject to the Council's comments and concerns being fully addressed and future-proofed.

Adequacy of Application/dDCO



7.8.13. There are no relevant DCO articles or requirements. Community First Fund will be secured through a s106 obligation, but the Councils await a draft of that obligation.

Conclusion

7.8.14. Given the potential adverse impacts relating to noise, sleep disturbances and air quality the Proposed Development is likely to lead to negative local impacts relating to health and well-being. The Councils request further discussions with the Applicant to minimise these impacts. In addition, the Councils ask for ongoing engagement to ensure that the Community First Fund delivers the anticipated benefits to Hertfordshire.

7.9. Public Rights of Way

Relevant local policies

North Hertfordshire Local Plan

7.9.1. Policy SP6: Sustainable transport states that *“We will deliver accessibility improvements and promote the use of sustainable transport modes insofar as reasonable and practicable. We will:*

- g) Protect existing rights of way, cycling and equestrian routes and, should diversion be unavoidable, require replacement routes to the satisfaction of the Council.”*

Dacorum Core Strategy (2006-2031)

7.9.2. Policy CS8: Sustainable transport states that *“All new development will contribute to a well-connected and accessible transport system whose principles are to “Maintain and extend the rural rights of way network.”*

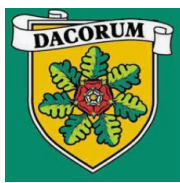
Hertfordshire County Council Rights of Way Improvement Plan

7.9.3. Hertfordshire County Council has produced a Rights of Way Improvement Plan (ROWIP) that is a sister document to the Local Transport Plan (LTP4).

7.9.4. RoWIPs are the way that Highway Councils identify changes and improvements to local rights of way networks in order to meet the Government's aims of better provision for walkers, cyclists, equestrians (horse riders and horse and carriage drivers) and people with disabilities.

7.9.5. The Statement of Action within this plan sets the vision and guides improvement of the network. This Statement of Action provides the long-term plan based on:

- i. the assessment of needs and demands;
- ii. the opportunities provided by the network;



- iii. links to wider public benefits;
- iv. LTP4 objectives and principles

7.9.6. The Core Actions - These are proposed to meet needs and demands; address shortcomings in the network; and to make links for a range of public benefits:

- 1) Develop routes that cater for the needs of people with limited mobility and visual impairment.
- 2) Develop the network from public transport connections.
- 3) Reduce the number of physical barriers on the network, e.g.; improve surfacing, remove, or improve structures.
- 4) Promote ROW and the health benefits of physical activity in the natural environment.
- 5) Develop links into the countryside from towns.
- 6) Create off-road routes linking communities with places of work, schools, and other local facilities.
- 7) Extend the network for cyclists, horse-riders, and horse & carriage drivers.
- 8) Develop a range of circular off-road routes which support health and wellbeing.
- 9) Ensure the off-road network is protected, extended, and enhanced through development proposals.
- 10) Work to improve the safety and attractiveness of the network affected by busy transport routes.

Local Impacts

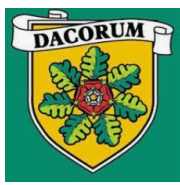
7.9.7. The following Work Numbers impact upon the Hertfordshire Public Rights of Way network.

- a) Work No. 5b(04) – the creation of a new public right of way (multi-use Bridleway), 1040m in length
- b) Work No. 5b(05) – the creation of a new public right of way (multi-use Bridleway), 400m in length
- c) Work No. 5b(06) – upgrading of Kings Walden Footpath 041 to a Bridleway and improvement
- d) Work No. 5b(07) – diversion and upgrading of Kings Walden Footpath 043 to Bridleway and improvement

7.9.8. Creation and improvements will be delivered to accord with the Specifications set out in the HCC Non-Motorised User Design Guide.

7.9.9. The users of the Public Rights of Way network in the area will be impacted by any increased traffic on the key and supplementary roads network.

7.9.10. The network of PROW are Highways. They interact with the roads network (Highways) with vulnerable users (walkers, equestrians, cyclists) either crossing or interlinking with the roads to continue their travels.



7.9.11. Any increase in motorised traffic on the roads network in the area due to Luton expansion will likely impact upon the network's users.

Adequacy of the Application/dDCO

7.9.12. The Councils are also currently considering the proposed right of way designations of Highways contained within Schedule 4 of the dDCO further engagement on this point is also requested. See Section 9 for further details.

7.9.13. The proposals are positive in principle. However, it is not possible at this stage to confirm whether the proposed diversions or stopping up of existing PRowS are acceptable, but the Councils seek engagement with the Applicant to discuss the points set out in this section.

7.10. Landscape and Visual

Relevant local policies

North Hertfordshire Local Plan

7.10.1. The Local Plan sets out a vision for North Herts Council. It states that: *'The District's important natural and historic areas and buildings that help to create the distinctive identity of the District in both urban and rural areas will have been protected and enhanced where possible. The quality and attractiveness of the landscape of North Hertfordshire, which contributes to its distinctive character, will have been conserved and enhanced where possible. New green infrastructure will have enhanced the network of green corridors linking settlements to the open countryside, providing greater opportunities for healthy lifestyles.'*

7.10.2. Strategic Objective ENV2 *"Protects and enhances the historic character of North Hertfordshire's towns, villages, hamlets and landscape by promoting good design that creates a distinctive sense of place."*

7.10.3. Policy SP12 Green infrastructure, landscape, and biodiversity states that *"We will accommodate significant growth during the plan period whilst ensuring the natural environment is protected and enhanced. We will:*

- a) Protect, identify, manage and where possible enhance a strategic multi-functional network of green infrastructure;*
- b) Consider and respect landscape character, scenic beauty and locally sensitive features, particularly in relation to the Chilterns Area of Outstanding Natural Beauty;*
- c) Protect, enhance, and manage designated sites in accordance with the following hierarchy of designations and features:*
 - Internationally designated sites*
 - Nationally designated sites*



- *Locally designated sites;*
 - *Non-designated sites that include important habitats and species*
- d) *Protect, enhance, and manage biodiversity networks including wildlife corridors, ancient woodlands and hedgerows, wetland and riverine habitats, Local Geological Sites, protected species, priority species and habitats, and non-designated sites of ecological value and ensure measurable net gains for biodiversity; and*
- e) *Protect other open spaces and support provision of new and improved open space.”*

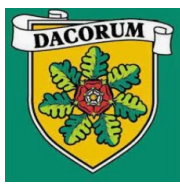
7.10.4. Policy NE2: Landscape states that *“Planning permission will be granted for development proposals that:*

- a) *Respect the sensitivities of the relevant landscape character area and have regard to the guidelines identified for built development and landscape management;*
- b) *Do not cause unacceptable harm to the character and appearance of the surrounding area or the landscape character area in which the site is located, taking account of any suitable mitigation measures necessary to achieve this;*
- c) *Are designed and located to ensure the health and future retention of important landscape features; and*
- d) *Have considered the long-term management and maintenance of any existing and proposed landscaping.”*

7.10.5. Policy NE3: The Chilterns Area of Outstanding Natural Beauty (AONB) states that *“Planning permission for any proposal within the AONB, or affecting the setting of the AONB, will only be granted provided that it: a) Is appropriate in scale having regard to national planning policy; b) Conserves and where possible enhances the Chilterns AONB’s special qualities, distinctive character and biodiversity, tranquillity and remoteness in accordance with national planning policy and the overall purpose of the AONB designation; c) Is appropriate to the economic, social and environmental wellbeing of the area or is desirable for its understanding and enjoyment; d) Has regard to the statutory Chilterns AONB Management Plan, making practical and financial contributions towards management plan delivery as appropriate; e) Has regard to the Chilterns Building Design Guide and technical notes by being of high-quality design which respects the natural beauty of the Chilterns, its traditional built character and reinforces the sense of place and local character; and f) Avoids adverse impacts from individual proposals (including their cumulative effects) unless these can be satisfactorily mitigated.”*

Dacorum Core Strategy (2006-2031)

7.10.6. Strategic Objective No.12 seeks to protect and enhance Dacorum’s distinctive landscape character, open spaces, biological and geological diversity, and historic environment.



7.10.7. Policy CS24: The Chilterns Area of Outstanding Natural Beauty states *“The special qualities of the Chilterns Area of Outstanding Natural Beauty will be conserved. The scarp slope will be protected from development that would have a negative impact upon its skyline. Development will have regard to the policies and actions set out in the Chilterns Conservation Board’s Management Plan and support the principles set out within the Chilterns Buildings Design Guide and associated technical notes.”*

7.10.8. Policy CS25: Landscape Character states that *“All development will help conserve and enhance Dacorum’s natural and historic landscape. Proposals will be assessed for their impact on landscape features to ensure that they conserve or improve the prevailing landscape quality, character and condition and take full account of the Dacorum Landscape Character Assessment, Historic Landscape Characterisation and advice contained within the Hertfordshire Historic Environment Record.”*

7.10.9. Policy CS26: Green Infrastructure states that *“the Green Infrastructure Network will be protected, extended, and enhanced. Habitat management zones, projects and more detailed policies will be set out in a Supplementary Planning Document and related Action Plan(s). National and local Biodiversity Action Plans will be supported. Designated sites will be protected, and opportunities taken to link them with the wider Green Infrastructure Network. Development and management action will contribute towards:*

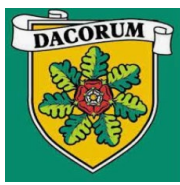
- a) the conservation and restoration of habitats and species;*
- b) the strengthening of biodiversity corridors;*
- c) the creation of better public access and links through green space;*
and
- d) a greater range of uses in urban green spaces. Open spaces will be managed in accordance with the Council’s Green Space Strategy.”*

Local Impacts

AONB

7.10.10. The impacts of the Proposed Development on the Chilterns AONB are set out within the submitted LVIA which includes 5.02 Appendix 14.4 Detailed Landscape Impact Assessment [PINS Ref:AS-086] and Figures 14.14 – 14.17 Number of Aircraft Overflights per day up to 7,000ft [PINS Ref: AS-102].

7.10.11. The submitted LVIA concludes that the proposed increase in aircraft movements and flight noise as a result of the Proposed Development will impact upon aesthetic/perceptual characteristics of the landscape within the Chilterns AONB and have a significant moderate adverse effect from 2037 onwards. At this stage there is no opportunity to provide additional mitigation. It is understood that, in the future, advancements in aircraft technology may provide an opportunity to reduce the impacts further.



7.10.12. The Councils are of the view that the Proposed Development does not currently comply with North Hertfordshire Local Plan Policy NE3: The Chilterns AONB. Further consideration is needed on the impacts of the Proposed Development on the Chilterns AONB identified within the submitted LVIA, particularly in terms of landscape effects.

Landscape Character and Elements/Features

7.10.13. The impacts of the Proposed Development on landscape character and elements/features are presented within 5.02 Appendix 14.4 Detailed Landscape Impact Assessment [PINS Ref:AS-086] and 5.10 Strategic Landscape Masterplan [PINS Ref: APP-172]

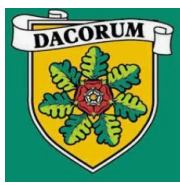
7.10.14. With the exception of landscape character area 'HLCA 200 Peters Green' and 'landform,' the submitted LVIA concludes that during the construction phases the Proposed Development will have significant adverse effects on some landscape character and landscape elements/features within Hertfordshire. However, impacts become insignificant at operation stage (ranging between minor adverse and moderate beneficial) mainly due to the mitigating effect of the 'additional mitigation' measures delivered within the area east of Winch Hill Road (as defined within the Strategic Landscape Masterplan [PINS Ref: APP-172]).

7.10.15. With regards to 'HLCA 200 Peters Green', the biggest impact and most significant residual effects will be experienced within the Luton Borough Council area, not within Hertfordshire County Council (HCC), and therefore the effects within HCC are less significant.

7.10.16. With regards to 'landform', the residual significant effects are as a result of the engineered slopes immediately adjoining the airfield. It is the Council's understanding that these lie within the Luton Borough Council area, not within HCC, and therefore the effects within HCC are less significant.

7.10.17. With regards to the scale and nature of development within HCC, temporary works comprise the stockpiles, fuel pipeline (cut and cover), and potentially infiltration tanks. These features will all be subject to landscape restoration and if this restoration is satisfactory should therefore have no long-term residual impact.

7.10.18. Permanent works comprise the 'work area' of the fuel pipeline that includes a fenced hard standing area (with access to connecting pipes and valves for maintenance and operational purposes) and a single access track (to Winch Hill Road). The Councils consider this is a relatively minor impact and therefore not significant.



7.10.19. Overall, the majority of the ‘replacement open space,’ ‘additional mitigation planting’ and ‘offsite hedgerow restoration’ areas will be delivered in the first construction stage. Whilst the proposals will result in a fundamental change in land use from arable fields to neutral meadow grassland with woodland and scrub, the change in character from farmland to parkland is not considered unacceptable within the wider context of Hertfordshire that is host to numerous parkland estates. In addition, the creation, restoration, and enhancement of landscape elements/features and public access, is considered to strengthen the new character and green infrastructure networks.

7.10.20. The Councils are of the view that the Proposed Development complies with North Hertfordshire Local Plan policy SP12: Green Infrastructure, Landscape and Biodiversity and Policy NE2: Landscape.

HCC Views

7.10.21. The Proposed Development impacts on HCC views is considered within 5.02 Appendix 14.4 Detailed Landscape Impact Assessment [PINS Ref:AS-086].

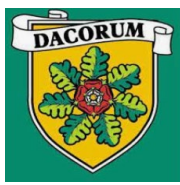
7.10.22. The Councils currently have substantial concerns for the impact of the Water treatment plant (4d) and fuel storage facility (4c(01)) constructed in Luton Borough but abutting, and visible from within the HCC boundary.

7.10.23. This is highlighted best in Assessment Viewpoint 28: Footpath (Kings Walden 43), where there is a narrow element of screen planting proposed within HCC along this boundary. However, the Councils remain concerned for how effective it will be especially in wintertime. The impacts of this element of the Proposed Development do not appear to be addressed sufficiently in the LVIA – which concludes at operation effects of minor adverse. In addition, this screening will not be implemented until construction phase 2b (2037-2042), after the plant/facility which will be delivered in phase 2a (2033-2036) and will therefore not benefit from advanced planting establishment. The Councils feel the approach to this edge needs to be reconsidered.

7.10.24. The Councils consider the views to be more sensitive (than the baseline of arable farmland) within the context of the more accessible open space and its landscape setting. The Proposed Development should not visually detract from the enjoyment of these new open spaces and enhanced Public Right of Way's.

7.10.25. The Councils are of the view that the Proposed Development does not currently comply with North Hertfordshire Local Plan policy SP12: Green Infrastructure, Landscape and Biodiversity.

Hitchin Offsite Highways Works



7.10.26. The submitted LVIA concludes that the Councils have concerns with the removal of some valued trees, leading to moderate adverse effects on landscape features/elements. At this stage there has been no mention of additional mitigation. We have engaged with North Herts to seek their input and recommendations, which have been considered. Based on the LVIA's conclusion there is the suggestion that it will have a negative impact. The Councils are of the view that the Proposed Development does not currently comply with the North Hertfordshire Local Plan policy SP12: Green Infrastructure, Landscape and Biodiversity.

Adequacy of Application/dDCO

7.10.27. The Councils have set out some comments on several of the Requirements that have Landscape and Visual implications, in more detail in Section 9 of this LIR. They can be summarised as the following:

7.10.28. Requirement 5 (Detailed Design) – relates to the Councils ability to approve the details of the layout, siting, scale and external appearance of the buildings, structures and other works that form the Development which is welcomed as this can have implications for landscape and visual settings. The Councils make recommendations in relation to the wording of this Requirement in Section 9 below, to help ensure it delivers the required outcomes of the Proposed Development's Design Principles [APP-225].

7.10.29. The Councils are currently considering the adequacy of the Strategic Landscape Masterplan Document [PINS Ref APP-172] referred to in Requirement 9 (landscape and Design) and the Landscape and Biodiversity Management Plan [PINS Ref AS-029] referred to in Requirement 10 (Landscape and Biodiversity Masterplan) and have made some suggestions on the wording of these requirements in section 9 below. Other than these suggestions, Requirements 9 and 10 are considered adequate.

7.11. Green Belt

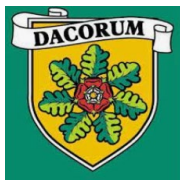
Relevant local policies

North Hertfordshire District

7.11.1. Policy SP5: Countryside and Green Belt states that "*We support the principles of the Green Belt and recognise the intrinsic value of the countryside. Green Belt and Rural Areas Beyond the Green Belt are shown on the Policies Map. We:*

a) Have conducted a comprehensive review of the Green Belt. Land has been removed from the Green Belt to:

i. enable strategic development at the locations referred to in Policies SP8 and SP3; ii. enable local development around a



number of the District's towns and villages; and iii. define boundaries for villages referred to in Policy SP2 which fall within the Green Belt but were previously 'washed over' by this designation; b) Have provided new Green Belt to cover, in general terms, the area bounded by the Metropolitan Green Belt to the east, the Luton Green Belt to the west and the A505 Offley bypass to the north; c) Will only permit development proposals in the Green Belt where they would not result in inappropriate development or where very special circumstances have been demonstrated; and d) Will operate a general policy of restraint in Rural Areas beyond the Green Belt through the application of our detailed policies."

Dacorum Core Strategy (2006-2031)

7.11.2. Policy CS5: Green Belt states that *"The Council will apply national Green Belt policy to protect the openness and character of the Green Belt, local distinctiveness and the physical separation of settlements."*

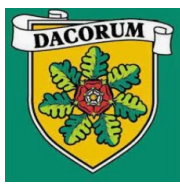
Local Impacts

7.11.3. The application contains proposals for the following that are within the Green Belt within the North Hertfordshire District:

- i. Fuel pipeline and associated works - A new fuel pipeline (Work No. 4c (02))
- ii. Infiltration Basin (Work 5c in the Drawing LLADCO-3C-ACM-AIR-FFE-DR-CE-0005)
- iii. Site wide earthworks

7.11.4. The Applicant's Green Belt assessment (PINS ref; APP-125) considers that item 'ii' is not inappropriate development in the Green Belt by virtue of the fact that it involves an engineering operation which would preserve the openness of the Green Belt and not conflict with the purposes of including land within it. No reference is made within the assessment to item 'iii'. but this is a similar engineering operation. Item 'i'. is inappropriate development within the Green Belt.

7.11.5. The application is considered to have a minor negative impact on the openness of the Green Belt. The North Hertfordshire Local Plan requires very special circumstances are demonstrated for development in the Green Belt. The Applicant argues that the Proposed Development constitutes these are very special circumstances and that the application is, therefore, considered to be compliant with the North Hertfordshire Local Plan. However, as set out above the Councils believe that insufficient justification has been provided to confirm



this type of development is appropriate development within the Green Belt and they will not meet the criteria of national policy and local policies as set out above.

Adequacy of Application/dDCO

7.11.6. There are not understood to be any directly relevant articles, requirements or DCO obligations in relation to the Green Belt.

7.11.7. However, notwithstanding the above, should the ExA be minded to accept the Applicants exceptional circumstances argument, appropriate Planning Requirements will be required to ensure that negative impacts are minimised.

7.12. Biodiversity and Habitat Regulations Assessment (HRA)

7.12.1. This section covers biodiversity and the HRA.

Relevant local policies

North Hertfordshire Local Plan

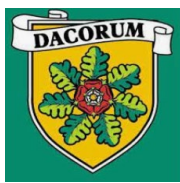
7.12.2. The North Hertfordshire Local Plan Vision states that *“the rich biodiversity and geodiversity of North Hertfordshire will have been protected and enhanced where possible. Where new development could potentially have an adverse impact on biodiversity and geodiversity, measures will have been taken to ensure that the impact was either avoided or mitigated.”*

7.12.3. *Strategic Objectives ENV3 requires the Protection, maintenance and enhancement of the District’s historic and natural environment, its cultural assets and network of open spaces, urban and rural landscapes.*

7.12.4. *Policy SP1 Sustainable development in North Hertfordshire local plan supports the principles of sustainable development within North Hertfordshire. We will amongst other criteria iv. protect key elements of North Hertfordshire’s environment including biodiversity, important landscapes, heritage assets and green infrastructure (including the water environment);*

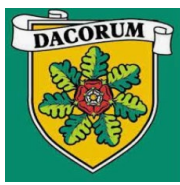
7.12.5. *Policy SP12 on Green infrastructure, landscape, and biodiversity states that we will accommodate significant growth during the plan period whilst ensuring the natural environment is protected and enhanced. We will:*

- a) Protect, identify, manage and where possible enhance a strategic multi-functional network of green infrastructure;*
- b) Consider and respect landscape character, scenic beauty and locally sensitive features, particularly in relation to the Chilterns Area of Outstanding Natural Beauty;*
- c) Protect, enhance, and manage designated sites in accordance with the following hierarchy of designations and features:*



- *Internationally designated sites;*
 - *Nationally designated sites;*
 - *Locally designated sites;*
 - *Non-designated sites that include important habitats and Species*
- d) *Protect, enhance, and manage biodiversity networks including wildlife corridors, ancient woodlands and hedgerows, wetland and riverine habitats, Local Geological Sites, protected species, priority species and habitats, and non-designated sites of ecological value and ensure measurable net gains for biodiversity; and*
- e) *Protect other open spaces and support provision of new and improved open space.”*

7.12.6. Policy NE4: Biodiversity and geological sites states that *“Planning permission will only be granted for development proposals that appropriately protect, enhance, and manage biodiversity in accordance with the hierarchy and status of designations and features listed in Policy SP12. All development should deliver measurable net gains for biodiversity and geodiversity, contribute to ecological networks and the water environment, and/or restore degraded or isolated habitats where possible. Applicants should, having regard to the status of any affected site(s) or feature(s): a) Submit an ecological survey that is commensurate to the scale and location of the development and the likely impact on biodiversity, the legal protection or other status of the site; b) Demonstrate that adverse effects can be avoided and / or satisfactorily minimised having regard to the hierarchy of protection below: i. locating on an alternative site with a less harmful impact; ii. providing adequate mitigation measures; or iii. as a last resort compensated for. The acceptability of approach(es) to avoidance, mitigation and compensation will be commensurate with the status of the asset(s) likely to be affected by the application; Compensation is unlikely to be an appropriate solution for proposals affecting nationally or internationally designated sites other than in the most exceptional circumstances. c) Include appropriate measures to manage construction impacts by demonstrating how existing wildlife habitats supporting protected or priority species will be retained, safeguarded, and managed during construction; d) Integrate appropriate buffers of complimentary habitat for designated sites and other connective features, wildlife habitats, priority habitats and species into the ecological mitigation and design. The appropriateness of any buffers will be considered having regard to the status of the relevant habitat. 12 metres of complimentary habitat should be provided around wildlife sites (locally designated sites and above), trees and hedgerows. It may be necessary to exceed this distance for fragile habitats such as ancient woodland or to provide appropriate root protection for mature trees; and e) Provide a long-term management and monitoring plan including mitigation measures as necessary. Local Geological Sites are ratified by the Herts & Middlesex Wildlife Trust (HMWT) and are afforded the same protection as Local Wildlife Sites.”*



7.12.7. Strategic Objectives No.12 seeks *'To protect and enhance Dacorum's distinctive landscape character, open spaces, biological and geological diversity and historic environment.'*

7.12.8. Policy CS26: Green Infrastructure states that *"The Green Infrastructure Network will be protected, extended, and enhanced. Habitat management zones, projects and more detailed policies will be set out in a Supplementary Planning Document and related Action Plan(s).*

National and local Biodiversity Action Plans will be supported. Designated sites will be protected and opportunities taken to link them with the wider Green Infrastructure Network.

Development and management action will contribute towards:

- *the conservation and restoration of habitats and species;*
- *the strengthening of biodiversity corridors;*
- *the creation of better public access and links through green space; and*
- *a greater range of uses in urban green spaces.*

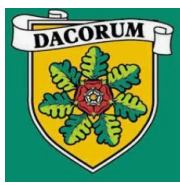
Open spaces will be managed in accordance with the Council's Green Space Strategy.'

Local Impacts

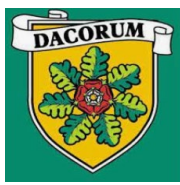
7.12.9. The habitats directly affected in Hertfordshire (NHDC) as surveyed within the baseline survey (report maps 18/11/21) are largely arable / cultivated fields, a small area of semi-improved neutral grassland and small areas of broadleaved woodland. Other than one small wood Local Wildlife Site which will not be directly affected, none of these areas have any form of ecological designation. Any losses of such habitat are considered to generate a low insignificant impact.

7.12.10. The Proposed Development will result in the total loss of Wigmore Park CWS over the different construction phases. It is mitigated for as part of the enhanced provision of open space included in the Proposed Development (i.e., embedded mitigation); a judgment is made that the effects will be of minor significance in the long term (10-15 years) on the CWS.

7.12.11. It is the Council's understanding that the whole of the Proposed Development will be subject to Biodiversity Net Gain (BNG) which will include compensation of the CWS and appropriate enhancements, much of which is in the administrative boundary of Hertfordshire. It is, therefore, considered that the Proposed Development has the potential to generate positive impacts within Hertfordshire.



- 7.12.12. One thin strip of woodland will have a fuel pipeline going through it from the adjacent fuel source facility, leading to the fuel storage facility adjacent to the county boundary to the west. This pipeline will also go through existing arable fields, no roadside or other hedgerows will be affected. There will also be an access road across what is currently an arable field to the fuel source. Three field areas have been identified for infiltration tanks and may require the loss of a hedgerow of site value which borders two of these fields. The net impacts of these will be negative where any habitats are affected, but the relative significance low as they are of value at the site level. The impact will be further minimised by the areas also being subject to landscape restoration and new habitat creation.
- 7.12.13. The lost habitats will be mitigated by the creation of new large areas of neutral meadow grasslands to be managed by cutting where accessible as open space and grazed neutral grasslands elsewhere. There will also be large fields of grazed calcareous grassland, in addition to numerous new woodland blocks, areas of proposed scrub and a small number of new ponds.
- 7.12.14. This will form a fundamental part of the compensation and enhancement required to deliver BNG for the whole project, the most significant ecological impacts being outside of Hertfordshire. However, any negative impacts within the county will be addressed as part of the overall BNG proposals for the whole project. It should also be noted that the Landscape and Biodiversity Management Plan [PINS REF: AS-029] does not mention BNG. If BNG is pursued and claimed, the LEMP should reflect and demonstrate the delivery of required Biodiversity Units.
- 7.12.15. There is also considerable proposed off-site hedgerow restoration and screening on private land, although included within the development application boundary. Almost all of this will be within NHDC and will enhance the existing biodiversity resource of hedgerows locally. This would also represent an additional positive impact ecologically and deliver any required hedgerow BNG.
- 7.12.16. Whilst this loss is considered minimal, it should be noted that there will be a temporary impact during construction whilst the new habitats establish themselves.
- 7.12.17. Chapter 8 of the Environmental Statement [PINS Ref: AS-027] provides, in general, a thorough overview of the likely impacts on Biodiversity. Further details on these assessments and the Baseline information that was used for them is provided in Section 2 of the Councils Written Representations document.



7.12.18. For the reasons set out above, the Councils consider that the net impact in terms of provision of habitat quality and extent in Hertfordshire will be positive.

7.12.19. Notwithstanding the overall positive review, key concerns are highlighted however on:

- a) The consistency of assessment of receptors through the chapter sections of 8.9 Assessment; 8.10 Additional Mitigation and 8.11 Residual Effects. It does not appear that all impacts are characterised in Section 8.9.
- b) The framing of habitat compensation as embedded mitigation within the Proposed Development. This requires consideration of the mechanism being deployed and the likelihood of long-term certainty of the mitigation proposed.
- c) As the majority of the lost habitat falls within the site boundary of the Proposed Development, the Councils realise that the majority of the mitigation would not be covered within the Government BNG Register if only off-site BNG is included. The Council's request that this should be subject to reporting to a Management Group or similar, made up of relevant Council representatives. This follows the model of a number of large developments in the county e.g. Panshanger, SRFI, Gilston etc.

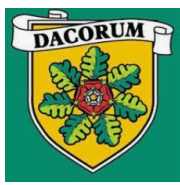
7.12.20. The above proposals and their impacts are considered to be consistent with meeting the Policies of North Hertfordshire Council as outlined above. Details of how these will be met in respect of buffers will need to be provided accordingly once final detailed plans and management are provided. However, given any impacts will be included within achieving BNG for the whole project, it is not considered this issue should be an ecological constraint.

Adequacy of the Application/dDCO

7.12.21. The Councils are currently considering the adequacy of the ecological mitigation strategies referred to in Requirement 11 (Protected Species). Otherwise, the DCO drafting appears appropriately enforceable. The Councils also request the Applicant engages with it around the split in regulatory oversight between it and Natural England.

Habitat Regulation Assessment (HRA)

7.12.22. National Planning Policies relating to HRAs are set out in Chapter 8 of the ES [PINS Ref: AS-027]. The implementation of these on a local level could



result in local impacts within Hertfordshire, although these impacts are not clear, so the Council's seek further information on this implementation process to ensure local impacts are clear.

7.12.23. The Applicant has produced the Habitat Regulations No Significant Effects Report (NSER) provided in Appendix 8.3 of the ES [PINS ref: APP/5.08] which does not make reference to any planning policies, so it is unclear whether this is compliant with planning policies. The Councils agree with Natural England's view that there are no significant impacts on the national network.

7.12.24. The NSER provides a conclusion that is supported. The NSER is, however, light on detail in regard to legislative and policy requirements in addition to basic narrative on justifying the lack of impact pathways away from air quality effects.

Adequacy of Application/DCO

7.12.25. Regulation 63 of the Habitats Regulations requires a Competent Authority to undertake an 'appropriate assessment' of any plan or project which is likely to have a significant effect on the features or a European Site unless the project is directly connected with the management of the site. Following this assessment, the Authority may proceed with the plan or project only after having ascertained that it will not adversely affect the integrity of the European Site. UK Government policy requires proposed Special Areas of Conservation and Special Protection Areas to be treated as European Sites along with Ramsar sites.

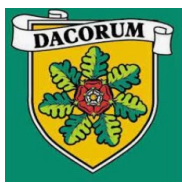
7.12.26. The NSER provides the findings of an assessment to determine if there is potential for effects from the Proposed Development on European Sites. The NSER considered European Sites within 30km of the proposed development and concludes that no effect on any European Site has been identified.

Conclusion

7.12.27. The Councils note the conclusion of the HRA and concur with Natural England's view that there are no adverse effects on any National Network Site. There are, therefore, not considered to be any significantly negative local HRA impacts.

7.13. Historic Environment

North Hertfordshire Local Plan



7.13.1. Policy SP13: Historic environment states that *“the Council will balance the need for growth with the proper protection and enhancement of the historic environment. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight will be given to the asset’s conservation and the management of its setting. We will pursue a positive strategy for the conservation and enjoyment of the historic environment through:*

- a) Maintaining a strong presumption in favour of the retention, preservation and enhancement of *heritage assets and their setting according to their significance;*
- b) *Identifying sites on the national register of Heritage at Risk or on the Council’s ‘At Risk’ register;*
- c) Periodic reviews of Conservation Areas and other locally designated assets; and
- d) Publication of detailed guidance.”

7.13.2. Policy HE1: Designated heritage assets states that Planning applications relating to Designated Heritage Assets or their setting shall be accompanied by a Heritage Assessment/Justification Statement that:

- i) Assesses the significance of heritage assets, including their setting;
- ii) Justifies and details the impacts of any proposal upon the significance of the designated heritage asset(s); and
- iii) Informs any necessary measures to minimise or mitigate against any identified harms.

7.13.3. Policy HE1 further states *“Planning permission for development proposals affecting Designated Heritage Assets or their setting will be granted where they (as applicable):*

- a) *Enable the heritage asset to be used in a manner that secures its conservation and preserves its significance;*
- b) *Incorporate a palette of materials that make a positive contribution to local character or distinctiveness, where it is appropriate and justified; and*
- c) *Will lead to less than substantial harm to the significance of the designated heritage asset, and this harm is outweighed by the public benefits of the development, including securing the asset’s optimum viable use. Where substantial harm to, or loss of significance, of a designated heritage asset is proposed the Council shall refuse consent unless it can be demonstrated that the scheme is necessary to deliver considerable public benefits that outweigh the harm or loss.”*

7.13.4. Policy HE2: Heritage at risk states that *“Planning permission will be granted for proposals that seek to conserve or provide new uses for designated heritage assets identified on the national register, or the Council’s ‘At Risk’ register maintained by the Council, that are justified and appropriate to the significance of the asset to return a heritage asset to beneficial use. Proposals*



that harm the significance of heritage assets included on national and local registers will be resisted unless the need for, and the benefits of, the development in that location clearly outweigh that harm, taking account of the asset's significance and importance, and all feasible solutions to avoid and mitigate that harm have been fully assessed."

7.13.5. Policy HE3: Non-designated heritage assets states that *"Permission for a proposal that would result in harm to, or the loss of, a non-designated heritage asset will only be granted provided that a balanced judgement has been made that assesses the scale of harm to, or loss of significance of the non-designated asset and, where the proposal results in the loss of a non-designated heritage asset:*

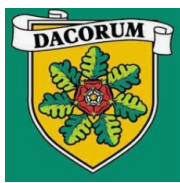
- a) The replacement building contributes to preserving the local character and distinctiveness of the area; and*
- b) Where the asset is located in a conservation area a continuous contract for the demolition and redevelopment of the site has been secured, unless there are justifiable grounds for not developing the site."*

7.13.6. Policy HE4: Archaeology states that *"Permission for development proposals affecting heritage assets with archaeological interest will be granted provided that:*

- a) Developers submit an appropriate desk-based assessment and, where justified, an archaeological field evaluation.*
- b) It is demonstrated how archaeological remains will be preserved and incorporated into the layout of that development, if in situ preservation of important archaeological remains is considered preferable; and*
- c) Where the loss of the whole or a material part of important archaeological remains is justified, appropriate conditions are applied to ensure that the archaeological recording, reporting, publication and archiving of the results of such archaeological work is undertaken before it is damaged or lost. Where archaeological sites have been assessed to meet the criteria for inclusion on adopted registers or maps of locally important heritage assets these shall be treated in the same way as archaeology areas and areas of archaeological significance. Areas of as yet, unknown archaeology may be identified during research, or through the planning or plan making process. These sites or areas should be treated in the same way as archaeology areas and areas of archaeological significance."*

Dacorum Local Plan

7.13.7. Policy CS27: Quality of the Historic Environment states that *"all development will favour the conservation of heritage assets. The integrity, setting and distinctiveness of designated and undesignated heritage assets will be protected, conserved and if appropriate enhanced. Development will positively conserve and enhance the appearance and character of conservation*



areas. Negative features and problems identified in conservation area appraisals will be ameliorated or removed. Features of known or potential archaeological interest will be surveyed, recorded and wherever possible retained. Supplementary planning documents will provide further guidance.”

Local Impacts

- 7.13.8. As the majority of the application site lies outside Hertfordshire and the Councils' authoritative areas, there are relatively few cultural heritage impacts either on buildings or structures or buried archaeology in Hertfordshire.
- 7.13.9. However, the Councils are concerned that assets might not have been fully assessed and as a result the assessment might not be compliant with planning policies. As per the NPPF para 203: 'The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application.' These assets have settings which should be considered and therefore, the Councils do agree that these potentially negative impacts should be scoped out at this stage of the development.
- 7.13.10. Appendix 10.2 Designated Heritage Assets Gazetteer of the ES [PINS Ref: APP-073] scopes out a number of designated heritage assets on the grounds that "The setting of this asset does not extend into the Site." There is no fixed distance for an asset's setting, as Historic England GPA3 notes: "*Contextual relationships apply irrespective of distance, sometimes extending well beyond what might be considered an asset's setting and can include the relationship of one heritage asset to another of the same period or function, or with the same designer or architect*" (ibid., page 3). This can be particularly relevant to registered parks and gardens and the individual assets located within them. The criteria in Appendix 10.2 Designated Heritage Assets Gazetteer of the ES [PINS Ref: APP-073] requires clarification as this approach means that some assessments of effects are potentially not fully understood. The Proposed Development will result in an increase in noise to sensitive heritage assets such as Knebworth House and Hatfield House, which will change their quiet, isolated rural nature.
- 7.13.11. Due to the uncertainty of these impacts the Councils are not yet able to advise on whether appropriate mitigation has yet been proposed and an open dialogue throughout the application process will be required to ensure the DCO and Requirements adequately mitigate potential effects.

Archaeology

- 7.13.12. The ES Chapter has not reported on the environmental effects of the Proposed Development in respect of the potential for possible, previously



unrecorded archaeological remains dating from the prehistoric period onwards. In the unevaluated areas of the Proposed Development Site these could be significant. The assessment of such potential is provided in TR020001-000708-5.02 Environmental Statement Appendix 10.1 Cultural Heritage Desk-based Assessment but needs to be summarised in the ES Chapter.

7.13.13. The Councils have discussed potential impacts on the possible Roman building (HER ref. 7358), Winch Hill Farm, a 17th century farmstead with medieval origins (HER 11016) during the SoCG process, and clarified potential archaeological impacts further. The Councils would welcome the opportunity to continue to be involved in further discussions on archaeology as the application progresses.

7.13.14. Whilst some progress has been made on clarifying some uncertainties, the local impacts on the heritage assets are deemed unclear so the Councils would welcome further involvement on this matter through the application process.

7.14. Green House Gases

7.14.1. This Section considers Greenhouse Gases (GHG) climate change implications. GHG implications in relation to Green Controlled Growth (GCG) are considered elsewhere in this LIR.

Relevant Local Policies

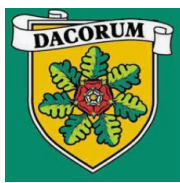
Dacorum Core Strategy (2006-2031)

7.14.2. Strategic Objectives No 2 relates to the ability to mitigate and adapt to the impacts of climate change; whilst No. 13 *“promotes the use of renewable resources, reduce carbon emissions, protect natural resources and reduce waste.”*

Local Impacts and Development Plan Compliance

7.14.3. Dealing with the climate emergency and minimising climate change is a key priority for the Councils.

7.14.4. Paragraph 12.11.56 of ES Chapter 12 GHG [PINS Ref: APP-038] concludes that the increases in all four of the carbon emission sources considered (Aviation, Airport Operations, Surface Access, and Construction) resulting from the Proposed Development would result in a Minor Adverse (i.e.



not Significant) effect, both individually and collectively. The ES notes that this assessment of significance has followed the latest Institute of Environmental Management and Assessment (IEMA) guidance on this issue (IEMA, 2022). The same IEMA guidance notes that *"A 'minor adverse' effect or better is therefore a high bar and indicates exemplary performance where a project meets or exceeds measures to achieve net zero earlier than 2050."*

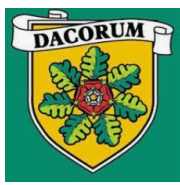
7.14.5. Given that a proportion of the carbon emissions increases under consideration will occur within the geographical boundaries of all three Councils and hence will be of relevance to current or potential future 'area-based targets' as referenced in the IEMA GHG guidance, with particular reference to Aviation emissions, there is insufficient explanation as to why a 'minor adverse' assessment has been determined for these effects, rather than a 'moderate adverse' (i.e. Significant) assessment.

7.14.6. Regarding the 'Matters scoped in' (paragraph 12.3.12), the carbon emissions from air traffic movements including take-off (Landing and Take Off (LTO) - below 3000 feet) and Climb, Cruise, Descent (CCD - above 3000 feet) are stated to be included in the assessment. However, Paragraph 12.5.9 notes that of the CCD emissions, only those from flights departing London Luton Airport have been included in the assessment. While this may accord with the UNFCCC approach (to avoid double counting between corresponding airports) this appears to be at odds with the IEMA significance assessment approach which should include the overall carbon emissions impact of a Proposed Development. Has the ES underestimated the actual aviation emissions resulting from the Proposed Development by only including half of the CCD emissions?

7.14.7. It should be acknowledged that there are three national targets for GHG emission reductions, relative to 1990 levels:

- a) 68% reduction by 2030 (Nationally Determined Contribution, as communicated to the United Nations Framework Convention on Climate Change);
- b) 78% reduction by 2035 (UK's Sixth Carbon Budget, enshrined in the Carbon Budget Order 2021); and
- c) 100% reduction by 2050 (enshrined in the Climate Change Act 2008, as amended in 2019).

7.14.8. A substantial part of the carbon emissions from the Proposed Development will be emitted within the geographical boundaries of the Councils. The local Councils Action Plans and Net Zero trajectories from both aviation emissions and surface access to the extended airport will be negatively affected.



7.14.9. Mitigation seems satisfactory. However, observations have been made in regard to the mitigation being listed under the incorrect heading and an error regarding the delivery mechanism of one mitigation measure. There is also a concern that carbon emissions from Aircraft take off may have been underestimated as it only includes aircraft departures, which whilst in line with UNFCC guidelines, may result in an underestimate of aviation movements and therefore an underestimate of emissions within Hertfordshire.

Other Matters Expected to Generate Neutral Impacts within Hertfordshire

7.15. Soil/Agricultural land/Farm Holdings

Relevant local policies

North Hertfordshire Local Plan

7.15.1. In relation to soil, agricultural land and farm holdings, the DCO application is considered to be compliant with the North Hertfordshire Local Plan. *“Vision: The rich biodiversity and geodiversity of North Hertfordshire will have been protected and enhanced where possible. Where new development could potentially have an adverse impact on biodiversity and geodiversity, measures will have been taken to ensure that the impact was either avoided or mitigated.”*

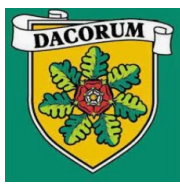
Local Impact and Development Plan Compliance

Environmental Statement

7.15.2. Paragraph 15.1 outlines control measures and standards that must be implemented by the lead contractor in relation to any earthworks.

7.15.3. The applicant and lead contractor will comply with appropriate environmental legislation and guidance available at the time of construction. For soils and geology this will be detailed in the SMP, the Framework Material Management Plan (FMMP) and the Remediation Strategy. Further requirements for specific areas, such as the management of earthworks and groundwater control will be considered from industry practice guidance documents.

7.15.4. The extent of works within Hertfordshire (site wide excavation and fuel pipeline infrastructure are relatively limited (Work Plans PINS ref: AS-012, AS-013, AS-014, AS-015, AS-016 and AS-017) and as a consequence the impact upon soil resources and on agricultural land holdings is not expected to be significant. Whilst some agricultural land is proposed to be converted from arable production to neutral grassland/neutral meadow, the soil profiles will remain intact, and their physical properties will be unchanged. There are not therefore considered to be any significant impacts on soil, agricultural land and



farm holdings within Hertfordshire.

- 7.15.5. There will be a loss of relatively low-grade agricultural land which is not considered to generate any significant local impacts associated with Soil, Agricultural Land or Farm Holdings in Hertfordshire and the Proposed Development is considered to be compliant with the Development Plan and other Planning Policies.

Adequacy of Application/dDCO

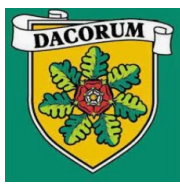
- 7.15.6. dDCO Requirement 8 (2) (j) refers to the Soil Management Plan - The Outline Soil Management Plan has not been reviewed, but the Councils accept that the requirement requires the submission of a soil management plan for written approval in due course and are content for that process to manage any detailed issues/content.

7.16. Water Quality and Resources, Flood Risk and Drainage

Relevant local policies

North Hertfordshire Local Plan

- 7.16.1. 'Policy NE9: Water quality and environment states Planning permission for development proposals *"will be granted provided that they make appropriate space for water, including (as applicable): a) Maintaining a minimum 8 metre wide undeveloped buffer zone from all designated main rivers; b) Maintaining a minimum 5 metre wide undeveloped buffer zone for ordinary watercourses; and c) River restoration and resilience improvements where proposals are situated close to a river or considered to affect nearby watercourses."*
- 7.16.2. Policy NE10: Water conservation and wastewater infrastructure states that *"Planning permission for new development will be granted provided that; a) It does not result in the deterioration of any watercourse in accordance with the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 (WFD); b) It helps contribute towards the Water Framework Directive (WFD) actions and objectives; c) It helps achieve the objectives set out in the Anglian and Thames River Basin Management Plans; d) Mechanisms for delivering any necessary new or improved water and/ or wastewater infrastructure are secured under the requirements of Policy SP7; and e) Adequate foul water treatment and disposal already exists or can be provided in time to serve the development. New development around Stevenage within the Rye Meads Sewage Treatment Works Catchment will need to demonstrate that additional potable water supply and consequential wastewater treatment capacity can be achieved and implemented ahead of development without significant environmental impact, including adverse effects on designated sites."*



Local Impacts

7.16.3. There are not considered to be any significant local impacts associated with Water Quality and Resources in Hertfordshire and the Proposed Development is considered to be compliant with the adopted Development Plans and other Planning Policies.

7.17. Flood Risk

Relevant local policies

North Hertfordshire Local Plan

7.17.1. Policy SP11: Natural resources and sustainability states. *“This Plan seeks to meet the challenges of climate change and flooding. We will:*

- a) Support proposals for renewable and low carbon energy development in appropriate locations;*
- b) Take a risk-based approach to development and flood risk, directing development to areas at lowest risk in accordance with the NPPF and ensuring the provision of Sustainable Drainage Systems (SuDS) and other appropriate measures;*
- c) Support the principles of the Water Environment (Water Framework Directive) Regulations 2017 and seek to protect, enhance and manage the water environment;*
- d) Give consideration to the potential or actual impact of land contamination and support proposals that involve the remediation of contaminated land; and*
- e) Work with utilities providers, East Hertfordshire District Council, and relevant agencies to ensure additional wastewater treatment capacity is delivered without harm to protected European sites.*

7.17.2. Policy NE7: Reducing flood risk states that *“Planning permission for development proposals will be granted provided that (as applicable):*

- a) Development is located outside of medium and high-risk flood areas (flood zone 2 and 3) and other areas affected by other sources of flooding where possible;*
- b) Where (a) is not possible, application of the sequential and exception tests is demonstrated where development is proposed in areas of flood risk using the Strategic Flood Risk Assessment (SFRA) and Environment Agency flood maps;*
- c) A FRA has been prepared in accordance with national guidance that considers the lifetime of the development, climate change impacts and safe access and egress;*
- d) It will be located, designed and laid out to ensure the risk of flooding is reduced whilst not increasing flood risk elsewhere;*
- e) The impact of any residual flood risk will be minimised through flood resistant, resilient design and construction;*



f) Any flood protection and mitigation measures necessary will not cause harm to nature conservation, heritage assets, and/ or landscape and recreation and, where possible, will have a positive impact in these respects; and

a) g) Overland flow routes and functional floodplain areas are protected from all development other than that which is “water compatible” and this must be designed and constructed to remain operational and safe for users during flood events, resulting in no net loss of flood plain storage and not impeding water flows or increasing flood risk elsewhere.”

7.17.3. Paragraph 18.7 of the ES states that *“the lead contractor will undertake all works associated with construction operations whilst being mindful of impacts to flood risk. A number of measures will be implemented to reduce significant impacts to flood risk. This will include, but is not limited to, the following as appropriate*

- A) Removal of obstacles and debris from surface water run-off pathways;*
- B) Development of a plan to identify suitable access and refuges in the event of severe weather events;*
- C) Consultation between the lead contractor and the Environment Agency and Lead Local Flood Authority, as appropriate;*
- D) Awareness of relevant regulatory bodies flood risk management plans during consultation as a reference for the development of specific construction site mitigation plan; and*
- E) Use of the Environment Agency’s flood line to provide a flood risk warning in flood risk areas within the Proposed Development”*

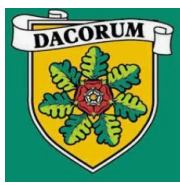
7.17.4. In addition, the ES states Flood Risk plans will be developed for the construction operations and will account for a broad range of topics including all construction areas located within Flood Zone 2 and 3, areas vulnerable to surface water and groundwater flooding, and other flood risk sources such as sewer flooding and reservoir flooding.

Adequacy of the Application/dDCO

7.17.5. The Councils are currently considering the adequacy of the surface and foul water drainage referred to in requirement 13 (Surface and Foul Water Drainage). Otherwise, the DCO drafting appears appropriately enforceable. Further suggestions are made in Section 9 of this LIR.

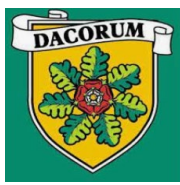
Local Impacts and Development Plan Compliance

7.17.6. There are not considered to be any significant local impacts associated with Flood Risk in Hertfordshire and the Proposed Development is considered to be compliant with the Development Plan and other Planning Policies.



8. The Relative Importance Of Different Social, Environmental Or Economic Issues And The Impact Of The Scheme.

- 8.1.1. As set out in the Planning Policy section above, the harm, including local impacts of the Proposed Development will be given equal weight to the economic benefits that it generates, and it will be determined by the Examining Authority/Secretary of State which take greater weight.
- 8.1.2. In support of the issues in relation to environmental impacts, and principally air quality, health and community, surface access, noise, emissions and landscape and visual impact, further details are set out in the following sections in relation to each topic area, and these include where relevant consideration of national and local planning policy issues. Alongside these environmental impacts, Sustainable Green Controlled Growth including four types of impacts from aircraft noise, air quality, greenhouse gases and surface access and proposed thresholds are considered to be key issues.
- 8.1.3. The Councils consider that the information submitted in the application does not enable the Councils to come to a view on whether the Proposed Development complies with planning policies. In order to establish this, the Councils request opportunities to engage technically with the applicant in relation to relevant matters, with a view to informing the on-going preparation of Statements of Common Ground/Principal Areas of Disagreement, Summary Statements and to provide clarity on the proposals and their compliance in this regard.
- 8.1.4. Paragraph 4.8 of AN1 advises that it would assist the Examining Authority if LIRs could give a view on the relative importance of different social, environmental, or economic issues and the impact of the scheme.
- 8.1.5. This application maintains that there will be positive social and economic benefits arising from the application, for example in terms of the economy/job creation and proposals for Community First. Whilst the scale of these benefits is uncertain, they are recognised in this LIR.
- 8.1.6. Nevertheless, the position of the Councils on the application is set out in their joint relevant representation and in their separate written representation submitted on 22 August 2023. The Councils take the view that the positive social, economic and those environmental impacts that are indeed positive, do not outweigh the negative environmental impacts of the proposal, principally in relation to noise impacts, air quality, greenhouse gas emissions, surface access; and specific health, wellbeing and community impacts.



9. Overall Commentary on Adequacy of dDCO and Requirements

9.1.1. The Councils have reviewed the various versions of the draft Development Consent Order (dDCO) submitted by the Applicant, including the most recent version accepted at the discretion of the Examining Authority (version 2, [AS-067]). Any references to the dDCO in this document are to [AS-067].

9.1.2. The Applicant has engaged with the Councils on a number of issues prior to the Application being submitted. No engagement on the dDCO has taken place since the Application was submitted on 27 March 2023, so the Councils would welcome the opportunity for further engagement on this matter through the application process.

9.1.3. Given the critical importance of the dDCO as the primary consenting instrument of the Proposed Development, the Councils have reviewed, with their legal advisors, the dDCO. This review has highlighted a number of concerns with the drafting as it stands, particularly around the control mechanisms during both construction and operation of the Proposed Development. To this end, the Councils request that the Applicant engages with the Councils on the dDCO as soon as possible, with a view to them being provided with sufficient comfort on their concerns.

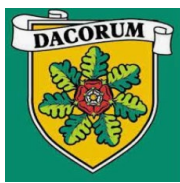
9.1.4. The primary concerns with the dDCO identified by the Councils are set out and explained below. However, given the weight of material that comprises the Application which the Councils are currently considering, the Councils may wish to raise further points on the dDCO in subsequent submissions.

dDCO - Time limits for consents/approvals

9.1.5. The Councils note that consents/approvals are required from one or more of them under various provisions of the dDCO. However, there is the concept of a 'deemed consent' where if no response is received within a prescribed time limit (the time limits are generally 28 days – see article 13(6) as an example - except for applications under the DCO requirements, where an 8-week period applies – see paragraph 35 of Schedule 2) the consent or approval is deemed to have been granted.

9.1.6. The Councils fully understand the Applicant's need for certainty in terms of timing (and that the Development should not be unduly delayed due to inactivity by the Councils) but there is a material concern that the deemed consent time limits are much too short.

9.1.7. As a Nationally Significant Infrastructure Project, the Proposed Development is a major, complex project. The Councils only have limited resources to deploy



in dealing with various applications for consent/approval under the DCO, if granted. The Councils are concerned that the Applicant may submit a number of applications for consent/approval concurrently which could not be adequately considered within the relevant timeframes. This could mean that the deemed consent mechanism is triggered where an application is unsatisfactory for one reason or another that could have significant consequences – for example, in relation to the temporary stopping up of streets under article 13 or traffic regulation measures under article 16. There does not appear to be any safeguard against this which could result in the Councils not being able to fully discharge their statutory duties in their respective areas.

- 9.1.8. The Councils therefore wish to discuss the deemed consent provisions in more detail with the Applicant, including seeking some mechanism or legally binding assurance in terms of implementing a solution where there is a balance between the Development being able to proceed in a timely manner and the Councils being able to give applications for consent/approval due consideration.

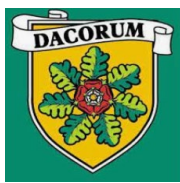
dDCO – Part 1 – Principal Powers

- 9.1.9. Article 6 (Limits of Works) – The Councils are currently considering the acceptability of the limits of deviation secured by this provision and the extent to which these have been assessed and reported on in the Environmental Statement. The Councils will engage with the Applicant on this point.

dDCO - Part 3 – Streets

- 9.1.10. Article 9 (Application of the 1991 Act) – Whilst the Councils note this provision is largely drafted in accordance with a number of precedents, it is noted that it (at paragraph (8) onwards) deals expressly with the East of England Permit Scheme (a permit scheme made under the Traffic Management Act 2004), limiting the conditions that can be attached to any permit granted under it. Clearly the Scheme has been implemented with a view to suitably managing street/highway works – as such, the Councils wish to fully understand the practical implications for any works associated with the Development. This will need to be further informed by information from the Applicant as to its intentions in respect of street/highway works that would ordinarily be subject to the Scheme on an unfettered basis.

- 9.1.11. Article 12 (Construction and maintenance of new, altered or diverted streets) – Similarly to article 9, the Councils acknowledge that broadly speaking this provision is in line with a number of precedents. However, it is noted that there does not appear to be any mechanism for an initial maintenance period (or any equivalent provision around defects/cost recovery) for any new, altered or diverted streets implemented under the DCO prior to their handover to the relevant street/highway authority. This does, in the Councils' experience, depart



from the norm (see, for example, article 11(1) of the Manston Airport Development Consent Order 2022 which does contemplate a maintenance period). The Councils, therefore, require some form of contractual arrangement to secure these matters, if the Applicant does not wish to reflect these on the face of the dDCO.

9.1.12. Article 14 (Permanent stopping up of public rights of way) – It should be noted that the Councils are currently considering the list of public rights of way contained in Schedule 3 to the dDCO that are proposed to be permanently stopped up under this article. It is not possible at this stage to confirm these are acceptable or not, but the Councils seek engagement with the Applicant on this point.

9.1.13. Article 18 (Designation of Highways) – Similarly to the above, the Councils are currently considering the proposed right of way designations contained in Schedule 4 to the dDCO. It is not possible at this stage to confirm these are acceptable or not, but the Councils seek engagement with the Applicant on this point.

dDCO – Part 4 – Supplemental Powers

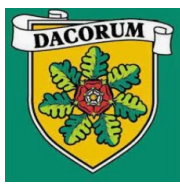
9.1.14. The Councils note the various powers contained in Part 4 of the dDCO. In general, it is acknowledged that these powers are consistent with precedents, and, in principle, there is no objection to them. However, the Councils are currently considering the precise extent to which these powers could impact their interests or duties (for example via protective works to buildings, via the discharge of water or the environmental impacts associated with the tree powers). This review is on-going, and the Councils will seek to engage with the Applicant on any areas of concern.

9.1.15. As a related point, the Councils note the use of the term ‘may be affected by the authorised development’ – see article 20(1) for example. This introduces a significant level of uncertainty as to the extent to which certain dDCO powers could be implemented, which could impact on the Councils’ interests. The Councils, therefore, seek further clarity from the Applicant in this regard.

dDCO – Part 5 – Powers of Acquisition and Possession

9.1.16. It is acknowledged by the Councils that projects of the scale of the Proposed Development will inevitably need to seek compulsory land powers, and those contained in Part 5 of the dDCO reflect precedent.

9.1.17. However, land interests of the Councils are listed throughout the Book of Reference [APP-011] which means that such interests will be subject to a



range of compulsory land powers, including permanent acquisition (outright or rights only) and temporary possession.

9.1.18. The Councils also note the provisions contained in article 35 of the dDCO in relation to the proposed permanent acquisition of existing special category land and the provision of replacement land. Under article 35(1) a scheme for the provision of the replacement land must be 'certified' by the local planning authority and the implemented by the Applicant. North Herts District Council wishes to discuss the mechanics of this with the Applicant, given (it is understood) that the existing special category land is currently within Luton Borough, but the replacement land is to be located in both Luton Borough and North Hertfordshire District. Given the need to ensure equivalent provision for residents (having regard to the definition of "replacement land" in section 131(12) of the Planning Act 2008).

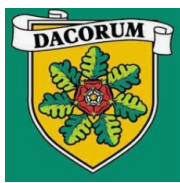
dDCO – Part 7 – Miscellaneous

9.1.19. Article 43 (Disapplication of Legislative Provisions) – The Councils note that the proposed legislative disapplications listed in article 43(1) are reasonably 'standard' across DCO projects. However, these do have a direct impact on certain land drainage functions/oversight, removing certain consenting roles. The usual position is for disapplications to be given in exchange for a set of appropriate 'protective provisions' in the dDCO. Having reviewed the protective provisions contained in Schedule 8 to the dDCO, at this stage the Applicant does not appear to be proposing to include land drainage protective provisions in the dDCO. This is a significant concern for the Councils and therefore urgent engagement with the Applicant is sought, as the Councils considers protective provisions are necessary to be included in the dDCO for its benefit to ensure suitable oversight of land drainage interfaces.

9.1.20. Article 44 (Interaction with LLAOL Planning Permission) – In summary, this provision confirms that the passenger cap of 18 million passengers per annum to which the Applicant is currently subject (as contained in planning permission reference 12/01400/FUL, granted by Luton Borough Council (the LLAOL Permission)) applies until a notice has been served on the 'relevant planning authority'. On the service of that notice, the LLAOL Permission ceases to have effect and is not enforceable. The Councils have significant concerns with this provision which require urgent further detailed engagement with the Applicant, including:

9.1.21. the fact that service of the notice triggering the LLAOL Permission ceasing to have effect appears to be entirely at the discretion of the Applicant;

9.1.22. the effect this provision would have on the existing planning obligations and how any replacement obligations would be secured;



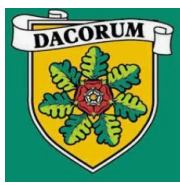
9.1.23. whilst it is understood that the ultimate aim of the Applicant is for the GCG Framework and other operational requirements to regulate operations at the Airport through the DCO, including its capacity, as set out above the Councils have a number of concerns in relation to this which need to be settled before they can confirm contentment with the existing passenger cap falling away – if the Applicant wishes to proceed in this way, the dDCO must contain a comprehensive set of controls, at least equivalent in effect to those conditions contained in the LLAOL Permission and associated planning obligation(s); and

9.1.24. practically how the GCG Framework and other restrictions will link to the Airport operations as they sit today – this is because the various obligations in the dDCO which prevent operations until certain measures are in place (including operational mitigation in Part 4 of Schedule 2 to the dDCO) only link to the operations of the ‘authorised development’ which, as defined in article 2, is the Development authorised by the dDCO (i.e. new works) as opposed to pre-existing works. It therefore appears to the Councils that, in theory, the Applicant could serve notice under article 45 of the dDCO and operate the existing works without any/sufficient controls being in place (as those under the LLAOL Permission would be unenforceable) – this appears at first glance to be a fundamental flaw in the proposals.

9.1.25. Article 45 (Application of the 1990 Act) – The Councils note this provision and require discussion with the Applicant as to its proposed effect. One of the intentions behind it appears to be to deal with inconsistencies between extant planning permissions (specifically the LLAOL Permission and the ‘Green Horizons Park permission’ as defined) and the Development, whilst at the same time not precluding development coming forward under either. This could, for example, result in any inconsistent planning conditions ceasing to have effect (article 45(2)(c)) and the removal of the relevant planning authority’s ability to take enforcement action. Ultimately, the Councils need to be clear that there is no regulatory gap in respect of the control of development and suggest at this stage that the drafting could give rise to uncertainty.

dDCO – Schedule 2 , Part 1 and Part 2 – Requirements (General and Construction)

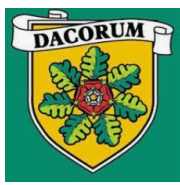
9.1.26. General – The Councils note that the Development can be split into ‘parts’ for the purpose of discharging the requirements. Whilst it is acknowledged this is a common approach in DCOs, the Councils would welcome clarification from the Applicant in terms of how this is proposed to work in terms of the proposed phasing of the Development, over quite lengthy periods of time (as per the assumptions contained in the Environmental Statement). The applicant is seeking clarification on whether a ‘part’ is a geographically distinct part, a temporally distinct part, or both.



- 9.1.27. Requirement 1 (Interpretation) – The Councils] note that a number of requirements are triggered only when the Proposed Development is ‘commenced’. The definition of this term includes a number of ‘carve outs’, whereby works can be undertaken without the discharge of requirements in advance. Whilst it is acknowledged that is a well precedented approach, the Councils are currently undertaking a review to ensure that none of these carve outs have an unintended consequence in terms of a regulatory gap (e.g. because such carved out works could give rise to an environmental effect which would otherwise be mitigated through the requirements attached to the DCO. The Councils will engage with the Applicant on this point.
- 9.1.28. Requirement 5 (Detailed Design) – The Councils welcome the ability to approve the details of the layout, siting, scale and external appearance of the buildings, structures and other works that form the Development, but note that such details must be in ‘general accordance’ with the Design Principles [APP-225]. There are two points to note in this regard:
- 9.1.29. the Councils are still reviewing the Design Principles to ensure it is fit for purpose, so are not in a position to confirm its acceptable at the current time; and
- 9.1.30. the reference to ‘in general accordance’ appears a weak way to secure the document, as this indicates there could be a substantial departure from them – they should either be secured or not. The Councils consider that the word ‘general’ should be deleted.
- 9.1.31. Requirement 7 (Notice of Commencement of Development) – The Councils require more than 14 days’ notice of the commencement of the development. In addition, they also require notice of when any works authorised by the DCO are begun. The Councils will discuss this in more detail with the Applicant.
- 9.1.32. Requirement 8 (Code of Construction Practice) – The Code of Construction Practice (CoCP) is a key construction works control document. The Councils have commented on the substance of this document (and the subsidiary outline plans) elsewhere, but wish to comment on the wording of the requirement itself as follows:
- 9.1.33. Requirement 8(1) only requires the Development to be carried out ‘substantially in accordance’ with the CoCP and its subsidiary plans – it is the Councils’ view that this wording allows too much latitude for the Applicant to depart from measures within the CoCP. Ultimately, the CoCP measures should either be fully secured or not. The Councils require that the word ‘substantially’ is deleted.



- 9.1.34. There is reference in Requirement 8(2) to ‘the contractor’ – this does not appear to be a defined term and the Councils query whether this should instead refer to ‘the undertaker’.
- 9.1.35. Requirement 9 (Landscaping Design) – The Councils are currently considering the adequacy of the strategic landscape masterplan document and have commented on that elsewhere – clearly the efficacy of this requirement rests on that. In terms of the DCO drafting, the Councils query whether it is appropriate for the details to only ‘reflect’ that strategic document, rather than be ‘substantially in accordance with...’, which would be consistent with drafting elsewhere in the DCO (e.g. in Requirement 10).
- 9.1.36. Requirement 10 (Landscape and Biodiversity Management Plan) - The Councils are currently considering the adequacy of the outline landscape and biodiversity management plan and have commented on that elsewhere - clearly the efficacy of this requirement rests on that. Otherwise, the DCO drafting appears appropriately enforceable. The only question the Councils have links in with how the Development is being split into ‘parts’ and how practically approval of details across numerous local authority areas would work. This comment, indeed, applies to almost all of the Requirements.
- 9.1.37. Requirement 11 (Protected Species) – The Councils are currently considering the adequacy of the ecological mitigation strategies and have commented on that elsewhere - clearly the efficacy of this requirement rests on that. Otherwise, the DCO drafting appears appropriately enforceable, although Councils request the Applicant engages with it around the split in regulatory oversight between it and Natural England.
- 9.1.38. Requirement 13 (Surface and Foul Water Drainage) - The Councils are currently considering the adequacy of the surface and foul water drainage plan and have commented on that elsewhere - the efficacy of this requirement rests on that. Otherwise, the DCO drafting appears appropriately enforceable, although it is noted “the surface and foul water drainage plan” is not currently a defined term in Requirement 1, so should be added.
- 9.1.39. Requirement 14 (Construction Traffic Management) - The Councils are currently considering the adequacy of the outline construction management plan and have commented on that elsewhere - clearly the efficacy of this requirement rests on that. Otherwise, the DCO drafting appears appropriately enforceable.
- 9.1.40. Requirement 15 (Construction Workers) - The Councils are currently considering the adequacy of the outline construction workers travel plan and have commented on that elsewhere - clearly the efficacy of this requirement rests on that. Otherwise, the DCO drafting appears appropriately enforceable.



9.1.41. Requirement 16 (Archaeological Remains) - The Councils are currently considering the adequacy of the cultural heritage management plan and have commented on that elsewhere - clearly the efficacy of this requirement rests on that. Otherwise, the DCO drafting appears appropriately enforceable.

9.1.42. Requirement 17 (Remediation of Former Eaton Green Landfill) - The Councils are currently considering the adequacy of the outline remediation strategy and have commented on that elsewhere. Otherwise, the DCO drafting appears appropriately enforceable.

dDCO – Schedule 2, Part 3 – Requirements Pertaining to Green Controlled Growth (GCG)

9.1.43. The Councils have commented on the GCG Framework more generally elsewhere.

9.1.44. Part 3 of Schedule 2 to the dDCO contains the provisions that legally secure the GCG Framework, through a number of requirements relating to the ESG, monitoring plans, the actions that need to be taken where there is an exceedance of a limit or a threshold and, finally, what such an exceedance means in terms of the ability for the Airport to grow in operational terms.

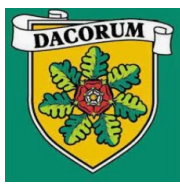
9.1.45. The Councils understand the Applicant's aims and objectives in respect of these provisions. However, no engagement has taken place between the parties on this drafting. Given the novel (and critical) nature of these provisions, the Councils request detailed engagement on this as soon as possible.

9.1.46. The appropriateness of the GCG Framework will largely rely on technical questions – e.g. the adequacy of the limits and thresholds – which are covered elsewhere.

9.1.47. However, in terms of the DCO requirements, the Councils have the following initial (but by no means complete set of) comments:

9.1.48. Requirement 20 (Environmental Scrutiny Group) – it is noted that Dacorum Borough Council is not proposed to be a member of ESG but it is considered that it should be, given it is a host authority for the Development. In addition, discussion will be needed on the precise operation of the ESG, particularly in terms of all members having one vote, given (depending on the matter at hand) issues may affect different members (and, particularly the Councils) differently;

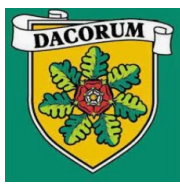
9.1.49. Requirement 21 (Monitoring of Permitted Operations) – it is suggested this is amended so:



- 9.1.50. that monitoring is required to be undertaken on as close to a ‘real time’ basis as possible;
- 9.1.51. exceedances should be reported to the Technical Panel and ESG on a minimum monthly basis or whenever such exceedances are measured as having occurred;
- 9.1.52. it is clear that a Monitoring Report is required to be produced annually;
and
- 9.1.53. that the ESG has some form of approval role in respect of a Monitoring Report (which is lacking currently), as this will allow ESG to have some say as to whether it agrees with the conclusions as to whether any Thresholds or Limits have been exceeded;
- 9.1.54. Requirement 22 (Exceedance of a Level 1 Threshold) – discussion is needed as to the appropriateness of this provision, whereby (under the current drafting) an exceedance of a Level 1 Threshold simply requires “commentary on the avoidance of the exceedance of a Limit” to be contained in a Monitoring Report, which is not precise and does not require any positive action or approvals – the Applicant’s position on this is noted (i.e. that such exceedances are expected to regularly occur), but this requires further interrogation and justification;

Requirement 23 (Exceedance of a Level 2 Threshold) – the Councils have the following initial comments on this provision:

- 9.1.55. the timeframes within which ESG has to consider a draft, and approve a final, Level 2 Plan (as defined) are too short, having regard to the importance of these matters and practicalities of assembling ESG and obtaining advice and input from the relevant Technical Panel(s);
- 9.1.56. it is suggested that it should be made clear that a Level 2 Plan must relate to the specific exceedance identified – the precise purpose and content of such Plans needs further clarification;
- 9.1.57. it is noted that approval of a Level 2 Plan can only be refused on specific grounds, which need to be further interrogated and justified; and
- 9.1.58. the appropriateness of the use of the Airports Slot Allocation Regulations 2006 as the primary mechanism to limit capacity needs to be further interrogated and justified, given the processes under them are out of the hands of the Applicant (and, indeed, the Councils).



- 9.1.59. Requirement 24 (Exceedance of Limit) – the Councils have the following initial comments on this provision:
- 9.1.60. the timeframes within which ESG has to consider a draft, and approve a final, Mitigation Plan (as defined) are too short, having regard to the importance of these matters and practicalities of assembling ESG and obtaining advice and input from the relevant Technical Panel(s);
- 9.1.61. it is suggested that it should be made clear that a Mitigation Plan must relate to the specific exceedance identified – the precise purpose and content of such Plans needs further clarification;
- 9.1.62. it is noted that approval of a Mitigation Plan can only be refused on specific grounds, which need to be further interrogated and justified; and
- 9.1.63. the appropriateness of the use of the Airports Slot Allocation Regulations 2006 as the primary mechanism to limit capacity needs to be further interrogated and justified, given the processes under them are out of the hands of the Applicant (and, indeed, the Councils) – indeed, the reference to a ‘local rule’ appears to acknowledge that the Applicant can only seek such a rule, rather than definitely secure one. As such, the question arises as to what mitigation measures can be used if a planned capacity reduction or local rule cannot be secured.
- 9.1.64. Requirement 25 (Review of Implementation of [the GCG Framework]) – the Councils welcome the principle of periodic reviews of the GCG Framework, which will allow for improvements to the process to be implemented over the medium and longer term. However, the Councils do have concerns around the time period within which ESG has to approve any proposed amendments to the GCG Framework before the deemed consent mechanism is triggered. Given the importance of such an application, a period of 56 days is short, particularly (again) having regard to the need for the ESG to congregate and seek input from the Technical Panels.
- 9.1.65. As set out above, the Councils urge the Applicant to engage with it on the GCG Framework DCO drafting (and indeed the GCG Framework more generally) in detail as soon as possible.

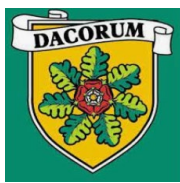
dDCO – Schedule 2, Part 4 – Requirements Pertaining to Other Operational Matters

- 9.1.66. Requirement 26 (Passenger Cap) – The Councils note the proposed overall cap of 32 million passengers per annum which they do not object to in principle. However, the key point relates to the comments above, in respect of whether the GCG Framework is an appropriate mechanism to control growth



within that overall cap. In addition, the Councils query the reference to the 'airport comprised in the authorised development' that is subject to the cap – given the definition of 'authorised development' (i.e. new development) clarification is required on the treatment of existing development. Indeed, this formulation is different to that in Requirement 27 (which just refers to the airport) – it is not clear if this is intentional Further engagement with the Applicant is required.

- 9.1.67. Requirement 27 (Night Quota) - The Councils have commented on the specific figure of 9,650 scheduled movements in the night quote period elsewhere. Generally the wording appears acceptable, subject to that commentary and, indeed, the conclusions reaches on the GCG Framework acceptability.
- 9.1.68. Requirement 28 (Fixed Plant Noise Management Plan) - The Councils are currently considering the adequacy of the fixed plant noise management plan and have commented on that elsewhere - clearly the efficacy of this requirement rests on that. Otherwise, the DCO drafting appears appropriately enforceable, although the Councils query whether the wording should be that the authorised development is 'operated' rather than 'carried out'.
- 9.1.69. Requirement 29 (Offsite Highways Works) - The Councils are currently considering the adequacy of the outline transport related monitoring and mitigation approach and have commented on that elsewhere - clearly the efficacy of this requirement rests on that. Otherwise, the DCO drafting appears appropriately enforceable.
- 9.1.70. Requirement 30 (Travel Plans) - The Councils are currently considering the adequacy of the framework travel plan and have commented on that elsewhere - clearly the efficacy of this requirement rests on that. Otherwise, the DCO drafting appears appropriately enforceable, although consideration is still being given as to whether the five year review period in Requirement 30(3) is appropriate.
- 9.1.71. Requirement 31 (Operational Air Quality Plan) - The Councils are currently considering the adequacy of the outline operational air quality plan and have commented on that elsewhere - clearly the efficacy of this requirement rests on that. Otherwise, the DCO drafting appears appropriately enforceable, although the Councils query in practice which authority would be the approving planning authority, given the subject matter.
- 9.1.72. Requirement 32 (Greenhouse Gas Action Plan) - The Councils are currently considering the adequacy of the outline greenhouse gas action plan and have commented on that elsewhere - clearly the efficacy of this requirement rests on that. Otherwise, the DCO drafting appears appropriately enforceable,



although the Councils query in practice which authority would be the approving planning authority, given the subject matter.

9.1.73. Requirement 33 (Operational Waste Management Plan) - The Councils are currently considering the adequacy of the outline operational waste management plan and have commented on that elsewhere - clearly the efficacy of this requirement rests on that. Otherwise, the DCO drafting appears appropriately enforceable.

dDCO – Schedule 2, Part 5, and Part 6 – Discharge of Requirement and Appeals

9.1.74. The Councils note the provisions in Requirements 35 (Applications Made Under Requirements) and 36 (Further Information), which govern the process for the discharge of the requirements (aside from those in Part 3 of Schedule 2). In short, these give the discharging authority 8 weeks to make a decision (or request further information) on any discharge application. Should no decision be made, consent is deemed to have been given.

9.1.75. As set out above, the Councils understand the Applicant's desire to build in certainty in terms of timing, but further engagement is required as the Councils are concerned as to the resource implications in meeting these obligations, particularly should multiple discharge applications be submitted concurrently. They do not want to be in a position whereby due to resource constraints, applications for approval on critical matters are simply deemed to be consented. This point also extends to seeking input from consultees (as set out in Requirement 36(3) for example), with very tight timeframes for input from them.

9.1.76. In addition, the Councils welcome the ability for the parties to agree a longer period for a discharge decision, although they query whether the drafting in Requirement 35(1)(c) is strictly correct (i.e. it doesn't appear to follow on from the preceding wording and paragraphs (a) and (b)). There are also other typographical errors in this Requirement.

9.1.77. Turning to Requirement 37 (Appeals to the Secretary of State), the Councils welcome the mechanism proposed for the dealing with of appeals. However, as set out elsewhere, the timescales proposed are short for responses (albeit it is recognised there is some precedent for these). The Councils wish to reflect further on these and, if appropriate, will make suggested drafting amendments in a future submission.

9.1.78. Requirement 38 (Matters to be Considered in an Appeal by the Secretary of State) sets out those matters that the person appointed by the Secretary of State must have due regard to in determining an appeal. These

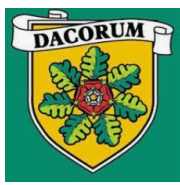


appear overly restrictive in the Councils' view, albeit the catch-all in paragraph (c) is recognised. For example, the express matters appear to only relate to the operation and growth of the Airport – of course, the matters that could be appealed are much more extensive than this. For example, there is no mention of the need to stay within the Environmental Statement Rochdale Envelope, minimise community impacts, etc. It appears to the Councils that these sorts of matters should be included, to balance points such as the 'safe and efficient commercial operation of the airport' needing to be expressly considered.

9.1.79. Finally, the Councils note the provision in Requirement 39 (Application of Part 8 of the Planning Act 2008) that provides for non-relevant planning Councils to submit representations to the relevant planning authority, requesting that enforcement action is take under the Planning Act 2008 in respect of specific GCG Framework related matters.

9.1.80. However, the Councils note that whilst the ESG determining that a Monitoring Report not being produced, or a Level 2 Plan or Mitigation Plan not being implemented, are circumstances where representations could be made, there is a query as to why (a) the failure to produce a Level 2 Plan or Mitigation Plan or (b) the failure to act appropriately in relation to future airport capacity declarations, are not covered.

9.1.81. In addition, the Councils would assume that this provision is not attempting to fetter the ability of any local authority to engage with the relevant planning authority around any potential non-compliance with the DCO (or indeed the relevant planning authority to take enforcement action of its own volition) as it could do absent this provision, but clarification on that would be welcome. For example, it is not clear whether this provision is aiming to only provide for enforcement action to be taken after the steps in this Requirement have been followed.



10. Overall Commentary on Green Controlled Growth

Overview

10.1.1. The Councils understand the Applicant's aims and objectives in respect of these provisions. However, no engagement has taken place between the parties on the detail of the Green Controlled Growth (GCG) framework. Given the novel (and critical) nature of this framework, the Councils request detailed engagement on this as soon as possible.

10.1.2. Key issues from the perspective of the Councils include:

10.1.3. The extent to which the limits and thresholds are sufficient and appropriate, and have appropriate associated controls and safeguards, to protect the environment and human health.

10.1.4. Whether the proposals in respect of monitoring and reporting provide sufficient oversight for stakeholders, including the Councils.

10.1.5. Whether there is a suitable framework for the Councils to participate effectively in the oversight and enforcement process, and provision for the resource and costs associated with this to be covered by the airport operator.

10.1.6. Whether proposals in terms of enforcement are suitable and provide sufficient controls to ensure that the environmental effects of the project, including in the event of any increase in capacity above the passenger cap, are within the envelope set out in the Environmental Impact Assessment (EIA).

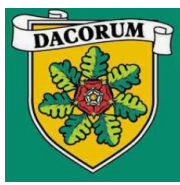
10.1.7. The Councils' comments on these key matters are set out below

Limits and thresholds

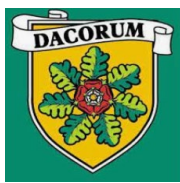
10.1.8. The Councils have the following initial (but by no means complete) set of comments:

10.1.9. In relation to exceedance of a Level 1 Threshold, discussion is needed as to the appropriateness of the proposals around exceedance of the Level 1 Threshold. Under the current proposals, an exceedance of a Level 1 Threshold simply requires "commentary on the avoidance of the exceedance of a Limit" to be provided in the annual Monitoring Report. This is not precise and does not require any positive action or approvals – the Applicant's position on this is noted (i.e., that such exceedances are expected to regularly occur), but this requires further interrogation and justification.

10.1.10. In relation to exceedance of a Level 2 Threshold, discussion is needed as to the appropriateness of the proposals. In particular:



- 10.1.11. the timeframes within which ESG has to consider a draft, and approve a final, Level 2 Plan (as defined) are too short, having regard to the importance of these matters and practicalities of assembling ESG and obtaining advice and input from the relevant Technical Panel(s);
- 10.1.12. it is suggested that it should be made clear that a Level 2 Plan must relate to the specific exceedance identified – the precise purpose and content of such Plans needs further clarification;
- 10.1.13. it is noted that approval of a Level 2 Plan can only be refused on specific grounds, which need to be further interrogated and justified;
- 10.1.14. the Councils do not consider that the Level 2 Plan should be deemed to be approved given its vital role in ensuring that a Limit is not exceeded;
- 10.1.15. the Councils note that new slots will still be permitted to be allocated within the existing capacity declaration whilst an exceedance of a Level 2 Threshold is ongoing, perpetuating the breach of that Level Threshold and increasing the risk of the Limit also being breached. Discussion is needed as to the appropriateness of this approach, which needs to be further interrogated and justified;
- 10.1.16. the proposals state that the Level 2 Plan will need to consider whether continued operations at the declared level of airport capacity is expected to result in the effects increasing above the Limit, and that if this is the case it is stated that the Plan should include proposals for additional interventions or mitigation including timescales for delivery, to ensure that the Limit will not be exceeded. However, this is not expressed as a requirement for the Plan. The Councils consider that this should be a specific requirement for the first Level 2 Plan; and
- 10.1.17. there is no incentive on the airport operator to strive to reach the Level 1 Threshold, and there is no sanction in the event of a breach or even a continued breach of a Level 2 Threshold, and as such no incentive to address any exceedances.
- 10.1.18. In relation to the exceedance of a Limit, discussion is needed as to the appropriateness of the proposals. In particular:
- 10.1.19. the timeframes within which ESG has to consider a draft, and approve a final, Mitigation Plan (as defined) are too short, having regard to the importance of these matters and practicalities of assembling ESG and obtaining advice and input from the relevant Technical Panel(s);
- 10.1.20. it is suggested that it should be made clear that a Mitigation Plan must relate to the specific exceedance identified – the precise purpose and content of

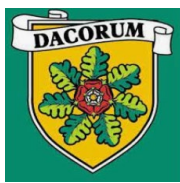


such Plans needs further clarification;

- 10.1.21. it is noted that approval of a Mitigation Plan can only be refused on specific grounds, which need to be further interrogated and justified;
- 10.1.22. the Councils do not consider that the Mitigation Plan should be deemed to be approved given its vital role in bringing the airport back within the Limits;
- 10.1.23. the Councils note that although no new slots will be permitted to be allocated and hourly runway capacity will not be allowed to be increased whilst an exceedance of a Limit is ongoing, the airport operator will still be able to operate within the existing capacity declaration and at the same level of capacity as the airport was operating at when the exceedance of the Limit occurred. The proposals would therefore allow an exceedance of the Limit to be perpetuated by maintaining the same capacity level, without requiring the airport operator to reduce the number of slots allocated, so as to bring the effects of the Development within the Limit. The Councils do not consider that this is an appropriate or effective approach to managing environmental impacts on an adaptive basis for the benefit of communities, and consider that in the event of an exceedance of the Limit the airport operator should be required to reduce capacity immediately if necessary in order to remedy the exceedance of the Limit. In this context we note that the exceedance over the Limit could be significant and could be such as to put the UK government in breach of its legal obligations and/or could have significant implications for the Councils, for example in relation to air quality;
- 10.1.24. under the proposals, it is only where a second Mitigation Plan has to be produced, after the original Mitigation Plan has not been effective in remedying the exceedance of the Limit within the timescales specified in the Mitigation Plan, that the Applicant would be required to consider whether implementation of a local rule would reduce, avoid or prevent exceedance of the Limit. The Councils believe that this should be required to be considered by the airport operator in the original Mitigation Plan, and not left to a second Mitigation Plan, and that the ESG should also have the power at the stage of the original Mitigation Plan to require the airport operator to implement a local rule to address the exceedance of the Limit;
- 10.1.25. the proposals state that the airport operator may feel that the most appropriate way of addressing a breach of a Limit is through a planned capacity reduction. The Councils consider that this should be required to be considered by the airport operator in the original Mitigation Plan, and that the ESG should also have the power at the stage of the original Mitigation Plan to require the airport operator to implement a planned capacity reduction to address the exceedance of the Limit;



- 10.1.26. the current proposals would enable the airport operator to make a case that growth at the airport should be allowed to continue even when a Limit has been exceeded, and this would only 'potentially' be subject to the delivery of or a contribution to a particular piece of mitigation. An example given is where the delivery of the necessary mitigation is not solely within the control of the airport operator, and another is that the approach could be used if airport related traffic is found to be making a small contribution towards a breach of UK legal limits. Discussion is needed as to the appropriateness of this approach, which could increase the extent of any exceedance of the Limit prior to any steps being taken to remedy the exceedance and/or perpetuate the exceedance of a Limit for longer than would be the case if it were remedied before growth were continued. Further justification and interrogation is required in relation to this aspect of the proposals;
- 10.1.27. the Councils consider that the right of appeal to the Secretary of State in respect of any decision made by the ESG, without specific grounds on which such appeal may be made, risks removing the local control and decision making that the ESG is designed to facilitate. The Councils' view is that any right of appeal should be limited to specific grounds; and
- 10.1.28. there is no incentive on the airport operator to strive to reach the Level 1 Threshold, and there is no sanction in the event of a breach or even a continued breach of a Limit, and as such no incentive to address any exceedances. Further discussion, justification and interrogation is required in relation to this aspect of the proposals and its appropriateness in terms of facilitating green growth at the airport.
- 10.1.29. The Councils consider that in the event of an exceedance the airport operator should immediately reduce activity in order to avoid continuing the exceedance and that it should then be required to take and report active steps it is taking to understand the cause of the breach and put forward measures and steps it is putting in place to ensure that the same situation and any further exceedance does not occur.
- 10.1.30. In this context it is noted that each Limit is to be aligned with the assessment results from the faster growth sensitivity test, which it is stated represents a realistic worst-case scenario. The Councils are concerned that under the current proposals the realistic worst-case scenario assessed in the EIA would be likely to be exceeded (by an unspecified and uncontrolled margin) for around 2 years before it could be brought back under control through capacity reductions or a local rule if other mitigation was not effective. Further discussion, justification and interrogation is required in relation to this aspect of the proposals and its appropriateness in terms of facilitating green growth at the airport



10.1.31. The Environment Act 2021 provided for new environmental targets to be set in legislation and reflected in the Environmental Improvement Plan (EIP), alongside interim targets to be published in the EIP. The Councils consider that it is important that the GCG proposals (including Level Thresholds and Limits) should be reflective of and take account of the interim targets and environmental targets, including where these change from time to time in accordance with periodic updates to the EIP and environmental targets.

Monitoring and reporting

10.1.32. The Councils note that the GCG proposals are for annual monitoring and reporting of environmental effects by the airport operator. This is not frequent enough to enable effective and adaptive oversight of the airport's operations, and the Councils consider that monitoring should be undertaken (with access provided to the Councils and ESG) on as close to a 'real time' basis as possible, and at a minimum reporting to the ESG on any exceedances should take place on a monthly basis or whenever such exceedances are measured as having occurred. An annual Monitoring Report should also be submitted and published as currently proposed.

10.1.33. We note that under the current GCG proposals it is stated that there would be a minimum two summer season lag between an exceedance of a Level 2 Threshold, or a Limit and action being taken to manage future capacity where required, based on the timings for future slot allocation. The Councils consider that this is too long a period for an exceedance of a Level 2 Threshold or a Limit to be perpetuated before action is taken to reduce capacity, accordingly, particularly noting that this would see the airport operating in exceedance of the realistic worst-case scenario reported in the EIA during this period. This further underlines that the controls around the exceedance of a Level 2 Threshold and/or a Limit as currently outlined are insufficient to facilitate effective adaptive environmental management and ensure that growth only takes place within appropriate parameters.

10.1.34. The Councils consider that where other monitoring of environmental impacts pursuant to the DCO is relevant to the outcomes and/or mitigation being reported or proposed in the Monitoring Report and/or any Level 2 Plan or Mitigation Plan, such monitoring should be provided to the Technical Panel and ESG along with the relevant Monitoring Report, Level 2 Plan or Mitigation Plan, to ensure transparency and ensure a complete and comprehensive consideration of the issues in the relevant Plan.

Independent scrutiny and review

10.1.35. It is noted that Dacorum Borough Council is not proposed to be a member of ESG but it is considered that it should be, given it is a host authority



for the Development. In addition, discussion will be needed on the precise operation of the ESG, particularly in terms of all members having one vote, given (depending on the matter at hand) issues may affect different members (and, particularly the Councils) differently. It is suggested in the GCG proposals that any Councils not on the represented on the ESG could sit instead on the Technical Panel. However, this is not a decision-making body and therefore representation on it would not enable Dacorum Borough Council to have effective oversight and enforcement in relation to matters affecting its area and communities, such as noise.

10.1.36. The Councils consider that the ESG should have some form of approval role in respect of a Monitoring Report (which is lacking currently), as this will allow ESG to have some say as to whether it agrees with the conclusions as to whether any Thresholds or Limits have been exceeded.

10.1.37. It is noted that the ongoing reasonable and properly incurred and evidenced costs of the ESG and Technical Panel will be funded by the airport operator. This is welcomed but should also include the resource and management costs of the Councils in relation to their participation in the ESG (and/or any Technical Panel), including reviewing, amending, and approving minutes of meetings, management packs and reviewing, commenting, and consulting internally on documents pursuant to the ESG.

10.1.38. The Councils welcome the principle of periodic reviews of the GCG Framework, which will allow for improvements to the process to be implemented over the medium and longer term. However, the Councils do have concerns around the time period within which ESG has to approve any proposed amendments to the GCG Framework before the deemed consent mechanism is triggered. Given the importance of such an application, a period of 56 days is short, particularly (again) having regard to the need for the ESG to congregate and seek input from the Technical Panels.

10.1.39. As set out above, the Councils urge the Applicant to engage with it on the GCG Framework in detail as soon as possible.

GCG and slot co-ordination

10.1.40. The appropriateness of the use of the Airports Slot Allocation Regulations 2006 as the primary mechanisms to limit capacity needs to be further interrogated and justified, given the processes under them are out of the hands of the Applicant (and, indeed, the Councils) – indeed, the reference to a 'local rule' appears to acknowledge that the Applicant can only seek such a rule, rather than definitely secure one.



10.1.41. As such, the question arises as to what mitigation measures can be used if a planned capacity reduction or local rule cannot be secured. The GCG proposals refer to a ‘toolbox’ of interventions that that airport operator can use to manage or mitigate environmental effects, but it is not clear from the proposals what effective interventions could be introduced in circumstances where a planned capacity reduction or local rule cannot be achieved, or cannot be achieved in an appropriate timeframe. As currently proposed, exceedances of Level 2 Thresholds and Limits could prevail for a significant period of time before being mitigated.

Compliance with GCG

10.1.42. It is noted that under current proposals it would only be a breach of the processes of the GCG framework that would constitute a breach of the legally binding terms of the DCO. It is stated that the process is designed to require action by the airport operator to address any exceedances.

10.1.43. However, as set out above, there is no incentive on the airport operator to strive to reach the Level 1 Threshold, and there is no sanction in the event of a breach or even a continued breach of a Limit, and as such no incentive to address any exceedances. Indeed, it could be argued that it could be in the interests of the airport operator to breach a Limit in order to facilitate growth, since it would then have around 2 years of increased capacity prior to having to potentially consider capacity reductions or local rules to bring the position back into compliance with the Limit.

10.1.44. The Councils consider that under the supplemental process the airport operator should be required to report to Luton Borough Council as the relevant planning authority in the event of the ESG serving a notice on it that it considers that a breach has taken place.

10.1.45. The current proposals do not sufficiently reward good behaviours and performance, and do not provide any sanctions on the airport operator in the event of exceedances of the Level 2 Thresholds or Limits.