

September 2023

# London Luton Airport Expansion

Planning Inspectorate Scheme Ref: TR020001

Volume 8 Additional Submissions (Examination)  
**8.61 Change Notification - Drainage Strategy**

London Luton Airport Expansion Development Consent Order



**The Planning Act 2008**

**The Infrastructure Planning (Examination Procedure) Rules 2010**

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

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**8.61 Change Notification - Drainage Strategy**

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<b>Author:</b>	Luton Rising

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# 1 INTRODUCTION

## 1.1 Purpose of this document

- 1.1.1 Luton Rising (a trading name of London Luton Airport Limited) (the Applicant) has submitted an application under section 37 of the Planning Act 2008 for an order to grant development consent (the application) for the expansion of London Luton Airport (the Proposed Development). The application was submitted on 27 February 2023 and accepted for Examination on 27 March 2023.
- 1.1.2 Since the submission of the application, the Applicant has continued to engage with stakeholders with a view to addressing their comments and agreeing common ground, while also continuing with detailed scheme development. This work has identified a proposed change to the application, which the Applicant considers would enhance the Proposed Development.
- 1.1.3 This document therefore constitutes Step 1 of Figure 1 of Advice Note Sixteen: How to Request a Change Which May Be Material (version 3) ('Advice Note Sixteen') (Ref 1) in which *"the Applicant informs the Examining Authority in writing of its intention to request a change to the accepted application"*. These changes are described in Section 2 and the accompanying figures.
- 1.1.4 The proposed change is a result of ongoing discussions with statutory stakeholders and relates to the **Drainage Design Statement (DDS) [APP-137]**, particularly the preferred option for the treatment and discharge of foul water and contaminated surface water from development works subject to the application.
- 1.1.5 The Applicant considers that the proposed change to the application is not so substantial as to constitute a materially different project from that applied for. The change would not involve modifications to the draft Order, or the inclusion of any additional Order works or land within the Order Limits, nor would the proposed change be anticipated to give rise to any materially new or materially different adverse environmental effects in comparison with those assessed and reported in the Environmental Statement. Refer to Section 2.3 for more information.
- 1.1.6 The Applicant is notifying the Examining Authority of its intention to formally request a change to the application and is seeking advice from the Examining Authority on the procedural implications. More information on the formal change request can be found in Section 4.
- 1.1.7 The Applicant intends to carry out a targeted non-statutory consultation on the changes prior to making the formal change request. More information can be found in Section 3.
- 1.1.8 The consultation will be undertaken having regard to the principles and process set out in the Planning Inspectorate's Advice Note Sixteen (Ref 1), as described in Section 3 of this document.

## 1.2 Indicative programme

1.2.1 The indicative programme for the relevant steps for submitting the formal change request to the Examining Authority are set out in Table 1.1.

Table 1.1: Indicative programme

Step	Indicative programme
Notification to the Examining Authority of the proposed change	22 September 2023
Non-statutory consultation	Early October for a minimum period of 14 days
Formal change request to be submitted to the Examining Authority	By Deadline 5 – 14 November 2023
Examining Authority decision on whether to accept the change and how they should be examined	At the Examining Authority's discretion

## 1.3 Accommodating the change within the Examination statutory timescales

1.3.1 The Applicant considers, subject to the Examining Authority's agreement, that the proposed change can be accommodated within the statutory timescales of the Examination for the following reasons:

- a. The proposed change is not considered complex in nature.
- b. There are no anticipated new or different likely significant adverse environmental effects compared to those reported in the Environmental Statement.
- c. The proposed change does not involve a modification to the Order or the addition of any further land to the Order Limits.
- d. The Applicant anticipates there will be very limited public/stakeholder interest due to the technical/specialised nature of the proposed change.
- e. No consents, permits or licences require an update as a result of the proposed change and the proposed change does not impede the securing of any consents, permits or licences required to undertake the Proposed Development.
- f. The proposed change does not alter compliance with relevant planning policy and in fact the Applicant considers that the planning balance in favour of the development is improved as a result of this proposed change in response to stakeholder discussions.

1.3.2 The submission of the Change Application at Deadline 5 provides sufficient time to review and examine any relevant stakeholder comments relating to the proposed change.

## **1.4 Structure of this document**

1.4.1 The structure of the remainder of this document is as follows:

**Section 2: Proposed Change**

**Section 3: Proposed Consultation**

**Section 4: Proposed Change Application**

**Section 5: Compliance with the Infrastructure Planning (Compulsory Acquisition Powers) Regulations 2010**

## 2 PROPOSED CHANGE

### 2.1 Overview of proposed change

- 2.1.1 Following the submission of the application for development consent and acceptance of it by the Planning Inspectorate for examination, the Environment Agency (the EA) provided the Applicant with its **Relevant Representation [RR-0444]** and **Principal Areas of Disagreement Summary Statement (PADSS) [AS-056]**, both dated 22 June 2023.
- 2.1.2 Within the PADSS, the EA identified that its Principal Area of Disagreement is the discharge of treated foul effluent and surface water runoff into the ground via infiltration and the concern that it could result in the irreversible pollution of the Principal Aquifer utilised for drinking water. One of the requirements noted in the EA’s PADSS is the provision of *“evidence that every opportunity to discharge foul and surface water runoff to the sewage treatment infrastructure operated by Thames Water has been exhausted.”*
- 2.1.3 This Change Notification acknowledges the items raised in the EA’s PADSS relating to groundwater protection, which were also raised within the Relevant Representation, and the Applicant’s further engagement with Thames Water (TW).
- 2.1.4 Table 2.1 provides a summary of the proposed change and anticipated materiality of the change based on the Applicant’s assessment against the Environmental Statement and other relevant factors such as the land required to accommodate the change.

Table 2.1: Summary of proposed change

Change code	Title of change	Brief summary	Materiality assessment
CN/001	Change in treatment and discharge of foul water and contaminated surface water runoff	Diversion of foul water and contaminated surface water runoff from assessment Phases 2a and 2b of the Proposed Development to Thames Water systems	Non material

### 2.2 Need for and description of proposed change

- 2.2.1 The current drainage design proposal within the **DDS [APP-137]** sets out one of the main design considerations as follows:
  - a. Section 3.3 details the existing sewerage capacity and limitations including TW East Hyde Treatment Works which only treats foul water and is physically constrained with limited opportunity for expansion.

2.2.2 Based on the above consideration, the design option presented in the **DDS [APP-137]** was developed to minimise the volume of contaminated discharge (foul water from buildings and contaminated surface water discharge) from the Proposed Development to the TW network, and TW’s treatment works.

2.2.3 The current DDS proposal is to undertake treatment of the contaminated discharges (both foul water and contaminated surface water) from assessment Phases 2a and 2b of the Proposed Development at an on-site Water Treatment Plant (WTP) before directing treated water for reuse as ‘grey water’ or to soakaways for infiltration into groundwater, managing the increased rate of run-off by attenuation.

2.2.4 Foul discharge from the existing airport terminal discharges to the TW network. The extension to the existing terminal in assessment Phase 1 would retain this arrangement under the current DDS approach.

2.2.5 This approach is illustrated in Figure 2-1.

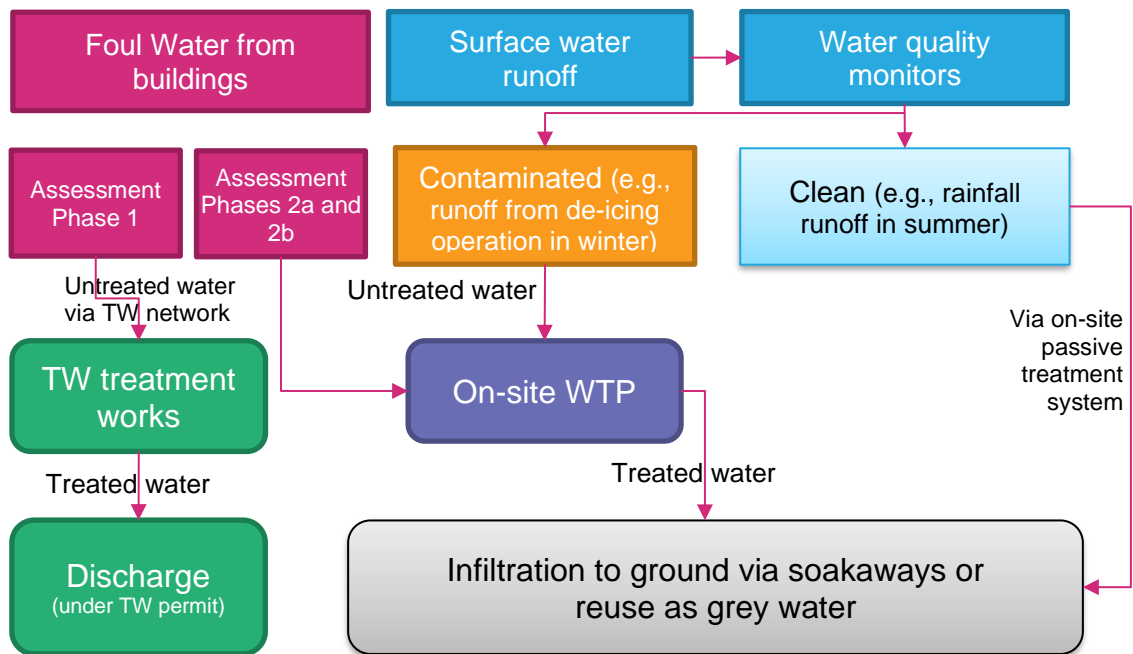


Figure 2-1 – Current DDS approach

2.2.6 The Applicant has been discussing the existing sewerage capacity limitations of TW’s network and treatment plant with TW. It has engaged TW to undertake an assessment of TW asset improvements which would be required to accommodate the foul water discharge and contaminated surface water runoff, instead of (as is currently proposed in the **DDS [APP-137]**) contaminated discharges being treated on-site and discharged to ground water by infiltration or reused as grey water.

2.2.7 In parallel to this ongoing assessment of asset improvement requirements, TW issued a letter to the Applicant on 1 September 2023 (presented in Appendix A) confirming that —



- a. TW has a statutory duty under Section 94 of the Water Industry Act 1991 to use its Permitted Development rights for the necessary sewer network upgrades to accommodate the proposed increase to domestic foul flows within TW network (which includes the Proposed Development); and
- b. any necessary upgrades to the East Hyde Treatment Works to accommodate increased flows (Domestic and Trade) from the airport, would be delivered using TW's Permitted Development rights.

- 2.2.8 TW also reiterated that the East Hyde Treatment Works site is landlocked, and expansion possibilities are constrained. The Applicant is working with TW to assess this constraint further, with an intention to eliminate the risk, and has proposed a reserve option to mitigate the risk (refer to section 2.2.11).
- 2.2.9 In response to the aforementioned TW correspondence, the Applicant now proposes a change to the **DDS [APP-137]** to provide that the Applicant's preferred option is to direct all contaminated discharges from assessment Phases 2a and 2b of the Proposed Development (including foul water from buildings, aircraft blue water<sup>1</sup> and contaminated surface water runoff) to the TW drainage, and treatment systems. As is the approach in the current **DDS [APP-137]**, non-contaminated (clean) surface water runoff would continue to be directed to groundwater by infiltration or reused as grey water.
- 2.2.10 This preferred option in the modified DDS would also recognise TW capacity and flow limitations: the modified DDS would propose using the attenuation tanks and other infrastructure, already included in the Proposed Development, to moderate and control the flow of contaminated discharges into the TW system.
- 2.2.11 The modified DDS would also recognise the ongoing nature of the TW assessment and the existing constraints at East Hyde Water Treatment Works. Given that TW's assessment of network and treatment capacity is ongoing, the Applicant's intention is to retain, in the DDS, the existing infiltration to ground options as a reserve option. This reserve option ensures a viable option exists for the treatment of contaminated discharges from assessment Phases 2a and 2b of the Proposed Development, should the preferred option prove not to be viable.
- 2.2.12 The modified DDS strategy, incorporating these preferred and reserve options, is illustrated in Figure 2-2.

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<sup>1</sup> The vacuum toilet used on aircraft sucks the waste into a holding tank where it is stored until the aircraft lands. Blue liquid disinfects the bowl and helps kill odours hence the name aircraft blue water.

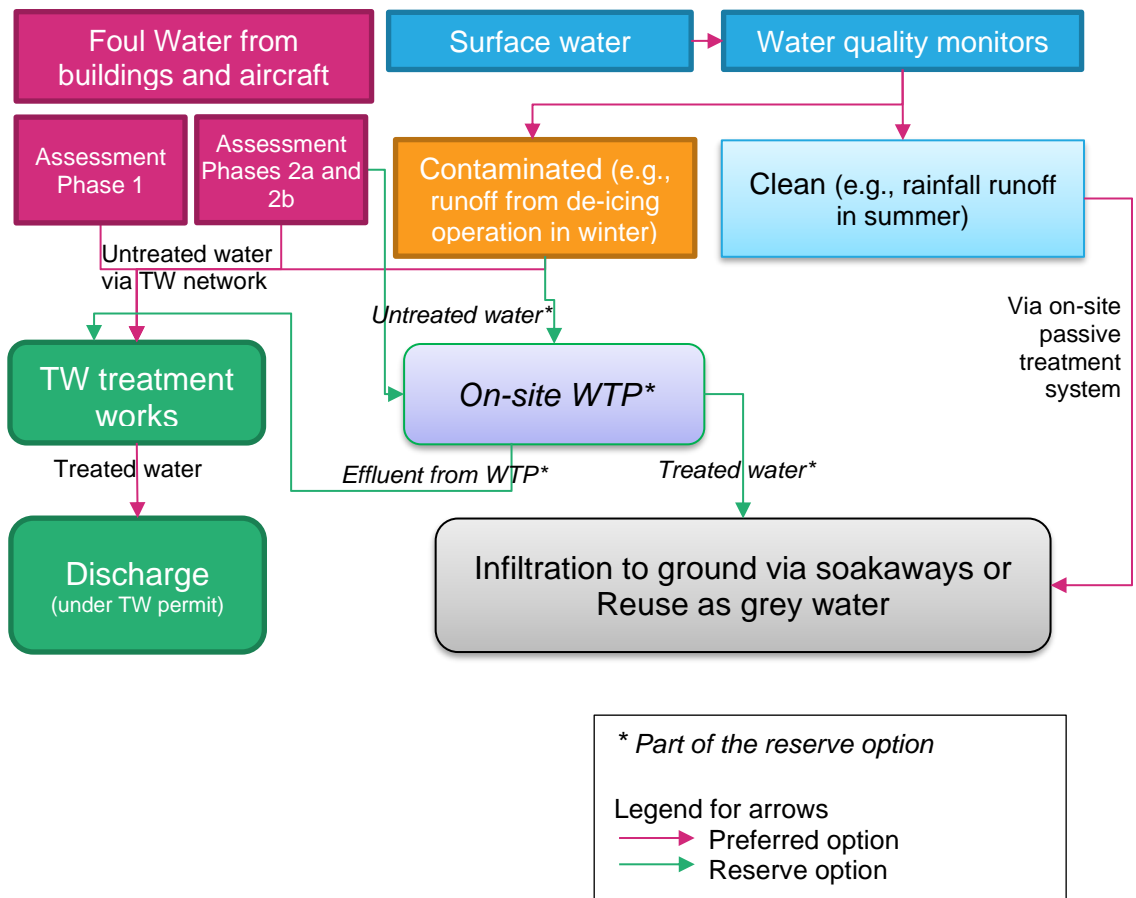


Figure 2-2 – Preferred, and Reserve DDS options

2.2.13 The Applicant’s intention is that, should the proposed change application be accepted by the Examining Authority, the modified DDS would contain both preferred and reserve options, but the Applicant is willing to commit that the reserve option would be adopted by the Applicant in circumstances where the ongoing TW assessment concludes that it is not possible to provide a sufficient capacity improvement to enable the preferred option to be implemented.

2.2.14 The Applicant considers that the proposed modified drainage strategy would address the Environment Agency’s Principal Area of Disagreement with the Proposed Development.

### 2.3 Environmental appraisal

2.3.1 The proposed change to the drainage strategy would include a new preferred option for addressing the project’s drainage requirements, in addition to the retained, reserve option.

2.3.2 This preferred option would, if exercised, be expected to result in a reduced likelihood of adverse environmental effects when compared to the existing drainage and effluent treatment option, as set out in the current **DDS [APP-137]**, and as assessed and reported in Chapter 20 Water Resources and Flood Risk of the **Environmental Statement [AS-031]**. The current proposal relies on on-site treatment of the contaminated water prior to discharge, to mitigate the

environmental impacts, whilst the alternative would further reduce the likelihood of environmental impacts to the aquifer by sending this water to Thames Water East Hyde Water Treatment Works, before it is ultimately discharged to the environment. The modified design is considered to not result in a change to the magnitude of the impact, and as such the effect and significance will also remain as reported in the existing assessment; minor adverse and not significant (with minor adverse meaning no deterioration of the aquifer in this instance).

- 2.3.3 The reserve option would not result in any new or different likely significant environment effects, as that is the existing drainage and effluent treatment option as set out in the current **DDS [APP-137]**, and assessed with regards to the effects on Water Resources and Flood Risk, and reported in **Chapter 20** of the **Environmental Statement [AS-031]**.
- 2.3.4 Further supporting evidence and/or updated documents supporting the water related aspects and matters of the Environmental Statement will be prepared and submitted, should the Examining Authority accept the proposed change into the Examination. However, these changes are not expected to alter the conclusions or result in new or different significant effects to those reported in **Chapter 20** of the **Environmental Statement [AS-031]**.
- 2.3.5 The proposed change would not alter the footprint or parameters of the water treatment and drainage infrastructure described in **Chapter 4** of the **Environmental Statement [AS-074]** and considered in the technical assessments in **Chapters 6 to 21** of the **Environmental Statement**. Work No. 4d, the Water Treatment Plant, was sized appropriately to accommodate the full treatment trains and processes to treat foul water, to be suitable for discharge to ground. Therefore, the options considered in this Change Notification would be accommodated within the same parameters and any assessment reported in the Environmental Statement that considered these would represent the reasonable worst-case. Therefore, this proposed change is not expected to alter the conclusions of the Environmental Statement or result in any increase in adverse significant effects to those already reported.

## 2.4 Substance of proposed changes

- 2.4.1 The Applicant has considered whether the proposed change would be so substantial as to constitute a materially different project, in accordance with paragraph 2.1 of Advice Note Sixteen (Ref 1).
- 2.4.2 The Applicant has done so in consideration of the impact, should the change application be accepted, on the Proposed Development, the Application Boundary and stakeholders, as set out below.
- 2.4.3 **Proposed Development** – The change would not require changes to the description of the Authorised Development contained in Schedule 1 of the Draft DCO, nor would it require any changes to the parameters shown on the Works Plans or any other drawing proposed to be secured by the DCO. Indicative drainage drawings appended to the DDS would be updated to reflect some re-routing of the underground pipework, required to direct additional flows to the

TW network, and these works would be covered by the ancillary works powers already contained in Schedule 1 of the Draft DCO.

- 2.4.4 **Application Boundary** – No change to the Application Boundary, or to the land or rights required for the Proposed Development, would be needed.
- 2.4.5 **Primary stakeholder (EA)** – Follow up discussion with the EA will be undertaken on the modified strategy with an intention to resolve the Principal Area of Disagreement relevant to foul water treatment and discharge.
- 2.4.6 **Other stakeholders (TW, Lead Local Flood Authority, Affinity Water)** – Continued engagement and collaboration with TW to confirm feasibility of foul and surface water capacity improvement, and viability of the modified DDS approach. No significant impact on the Lead Local Flood Authority<sup>2</sup> or Affinity Water is foreseen, but they (and TW) would be notified of the detail of the proposed change application during the proposed change consultation and thereafter through regular engagement processes.
- 2.4.7 In view of the above, the Applicant considers that the identified change does **not** meet the criterion for a material change.

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<sup>2</sup> Luton Borough Council, Hertfordshire County Council, Central Bedfordshire Council

### 3 PROPOSED CONSULTATION

- 3.1.1 The Applicant intends to carry out a non-statutory consultation in advance of the change application to ensure that all relevant stakeholders with a potential interest in the change are made aware of the proposed change and have the opportunity to provide comments in advance of the submission of the formal change application to the Examining Authority.
- 3.1.2 The Applicant seeks the views of the Examining Authority on the scope and nature of that proposed consultation, as outlined below.
- 3.1.3 The Applicant proposes that the consultation would explain the proposed changes to the DDS, i.e. to include the new, preferred option, and why this change is now being made. There would be a summary description of the proposed change, what it is, why it is considered appropriate to make it (e.g. to address the EA's concern) and what the anticipated impacts would be. This would be supplemented by a breakdown of the change by environmental topic area. There would be a single consultation document and response form.
- 3.1.4 Advice Note Sixteen (para. 3.3) (Ref 1) sets out the following (emphasis added):  
*“... as a starting point the Inspectorate recommends that applicants should consult all those persons prescribed in the PA2008 under section 42 (a) to (d) who would be affected by the proposed change (giving a minimum of 28 days from the receipt of the information for responses). If a targeted approach to the identification of those affected by the request to change the application is adopted then detailed justification should be provided as to why it is deemed unnecessary to consult all of the prescribed persons (for example, in the case of Statutory Undertakers, by confirming that the proposed change would not affect their functions).”*
- 3.1.5 The Applicant proposes taking a targeted approach to consultation in this case, given the nature of the change proposed, i.e. the addition of a preferred option to the proposed drainage strategy set out in the **DDS [APP-137]**. As explained above, there are no proposed changes to the Proposed Development or the Application Boundary and, the Applicant considers at this stage, there will be no materially new or different likely significant adverse environmental impacts.
- 3.1.6 Consequently, the Applicant proposes a targeted approach of consulting on the proposed change application with the relevant stakeholders only (the EA as the relevant regulator; TW and AW as the relevant statutory undertakers; and Lead Local Flood Authority) as those with an interest directly affected by these changes.
- 3.1.7 Given the Examination timetable, the Applicant's engagement to date with the proposed consultees, their existing familiarity with the purpose and nature of the proposed change, and the small number of consultees overall, the Applicant proposes a shorter consultation period of 14 days (rather than 28 days).
- 3.1.8 A summary of the consultation responses will be submitted with the formal change submission confirming who has been consulted in relation to the proposed change and how they have been consulted in accordance with Advice

Note Sixteen (Ref 1). The summary of consultation responses will also set out the feedback received and how the Applicant has considered this feedback.

- 3.1.9 The Applicant notes that the Examining Authority will, in its response to this Change Notification, provide advice about who it considers should be consulted, and the Applicant will seek to comply with that advice.
- 3.1.10 The Applicant also notes that, if the proposed change is ultimately accepted by the Examining Authority, Interested Parties will be invited to comment on the changed application.

## 4 PROPOSED CHANGE APPLICATION

4.1.1 The formal change request will include the following:

- a. Information on the proposed change, including the following:
  - i. description and reason for the proposed change;
  - ii. 'before' and 'after' excerpts of the relevant plans/drawings included with the DDS; and
  - iii. an explanation of why the Applicant considers the proposed change to be non-material.
- b. Justification for making the change.
- c. A full schedule of all application documents and plans listing reviews to each document/plan or a no change statement.
- d. Identification of any impediment to securing any consents/licences required (alongside the Draft DCO).
- e. Environmental appraisal of the proposed change including the assessment individually and cumulatively.
- f. Details of the engagement and consultation on the proposed change, a summary of the responses received and how they have been considered by the Applicant.

## 5 COMPLIANCE WITH THE INFRASTRUCTURE PLANNING (COMPULSORY ACQUISITION POWERS) REGULATIONS 2010

- 5.1.1 As explained earlier in this Change Notification, the Applicant is not proposing to make any changes to the Order Limits, or to the rights it seeks over individual land parcels within the Order Limits as identified on the **Land Plans [AS-011]**, **Special Category Land Plans [AS-021]**, **Crown Land Plans [AS-024]** and the **Book of Reference [APP-011]** as a result of the proposed change. Therefore in the Applicant's view, the Infrastructure Planning (Compulsory Acquisition Powers) Regulations 2010 are not engaged by the proposed change.



## GLOSSARY AND ABBREVIATIONS

<b>Term</b>	<b>Definition</b>
DCO	Development Consent Order
DDS	Drainage Design Statement
EA	Environment Agency
PADSS	Principal Areas of Disagreement Summary Statement
TW	Thames Water
WTP	Water Treatment Plant

## REFERENCES

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Ref 1 Planning Inspectorate (March, 2023), Advice Note Sixteen: Requests to change applications after they have been accepted for examination (version 3)

## APPENDIX A: TW CORRESPONDENCE



FAO: [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Developer Services – Major Projects**

Our ref	K317-A-111
Name	[REDACTED]
Phone	[REDACTED]
E-Mail	[REDACTED]

1<sup>st</sup> September 2023

Dear [REDACTED],

Please find this letter which addresses the key points between Luton Airport and Thames Water Utilities Limited (TWUL) regarding Luton Airport DCO.

TWUL accepts that it has a statutory duty to receive all domestic foul flows from the proposed buildings in the Terminal 2 development subject to any potential upgrades to the sewer network.

We will continue to work with Luton Airport to understand its trade effluent requirements, including contaminated surface water runoff. We will adopt our standard approach to assess the discharge of any Trade Effluent (including contaminated surface water runoff) from the Airport, in having regard to existing and likely future discharges of Trade Effluent.

We acknowledge our statutory duty under Section 94 of the Water Industry Act 1991 to use our Permitted Development rights for the necessary sewer network upgrades to accommodate the proposed increase to domestic foul flows within TWUL's network.

Any necessary upgrades to the East Hyde Treatment Works to accommodate increased flows (Domestic and Trade) from the airport, will be delivered using our Permitted Development rights. It's important to note that East Hyde STW is landlocked, and expansion possibilities are constrained.

Any connections to the public sewer network inside or outside of the order limits of the proposed development will require consent from us under Section 106 of the Water Act 1991.

Thames Water will continue to work with Luton Airport with issues identified during the DCO process and will continue to collaborate with you to help understand your wastewater infrastructure requirements.

Yours sincerely

[REDACTED]

[REDACTED]

Design Manager - Developer Services Major Projects