

Inclusive Economy
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Jo Dowling
Lead Member of Examining Panel
National Infrastructure Planning
Temple Quay House
2 The Square
Bristol, BS1 6PN

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5 October 2023

Your Reference: TR020001
Our Reference: 20040643

Dear Ms Dowling,

**Re: Planning Act 2008 (as amended)
Application by London Luton Airport Limited for an Order Granting
Development Consent for the London Luton Airport Expansion project**

This letter is the response of Luton Council, as the local planning authority (LPA), to the Examining Authority's (ExA) request for post hearing submissions, including written submissions of oral cases, associated with the Compulsory Acquisition Hearing (CAH1) and the Issues Specific Hearings (ISH1 to ISH6), together with the actions that arise from those hearing sessions (listed in the 'Action Points' associated with each session).

The LPA was solely represented by Mr Michael Fry, of counsel, at the Compulsory Acquisition Hearing (CAH1) and at Issue Specific Hearing sessions ISH4, ISH5 and ISH6. At Issue Specific Hearing Sessions ISH1, ISH2 and ISH3, the five Host Authorities were jointly represented by Pinsent Masons, consequently, the submissions associated with those three sessions are submitted by Pinsent Masons on behalf of all the Host Authorities.

CAH1: Compulsory Acquisition

The LPA made no oral submissions during this hearing session, nor were there any action points ascribed to the Luton, nor were there any matters that the LPA consider require addressing in this response.

ISH1: Draft DCO

Mr Robbie Owen of Pinsent Masons made oral submissions on behalf of all five Host Authorities, with Mr Fry making additional submissions where appropriate. As noted above, the ISH1 post hearing submission, being provided by Pinsent Masons, reflect oral submissions that were made by officers on behalf of Luton, as well as picking up the action points that arose from the hearing session.

ISH2: Need, Socio-economic, GHG and Climate Change

For IHS2 the five Host Authorities were represented by Ms Fiona Ross of Pinsent Masons, with Dr Chris Smith of CSACL providing aviation advice covering need and forecasting and Genecon present in regard to economics and employment. Mr Fry, of counsel, again made submissions where a specific point in relation to Luton's position was required. The post hearing submission on behalf of all five host authorities is being provided by Pinsent Masons.

There are a number of documents associated with Action Point 16 (climate emergency strategies) that the LPA was requested to provide, so these are being uploaded for Deadline 3 by the LPA.

ISH3: Noise

Again Ms Ross of Pinsent Masons represented all five of the Host Authorities on ISH3, and Mr Fry again making submissions with Council officers when necessary. A combined response on behalf of the five Host Authorities is being submitted by Pinsent Masons. As with ISH2 there were action points that require documents to be submitted by Luton for Deadline 3 and these are being uploaded together with this response.

Action Point 4 required details of the acoustic screen that was to be provided as part of the New Century Park development (LPA ref: 17/02300/EIA). Three plans that are referred to in the Host Authorities joint post hearing submission are being submitted by us for inclusion within the Examination Library.

During the hearing session the ExA asked for a copy of the Section 106 Agreement for the extant planning permission at the airport (LPA ref: 15/00950/VARCON) to be provided. The engrossed Section 106 agreement is being submitted with this response for the Examination Library.

ISH4: Traffic and Transport

Mr Fry represented the LPA at ISH4 and introduced Mr Antony Swift, team manager in the sustainable development and transport team.

Mr Swift made an oral submission in relation to the highway mitigation associated with the identified junctions (Item 4: Off-site highway works), noting that it was something that the local highway authority (LHA) supported in principle. When the more detailed designs come forward from the applicant the LHA would be able to comment further.

Under Item 5: Parking, the ExA raised the issue of 'fly-parking' and Mr Fry submitted that the LHA would welcome the opportunity of working with the Applicant to resolve fly-parking issues, noting that the monitoring and funding of controlled parking zones and enforcement could be addressed in the Section 106 agreement.

Action Point 13 required the Council to provide an update in relation to how it is working with the applicant to resolve the issue of fly parking associated with the airport. We are aware from the Rule 17 letter dated 3 October that the deadline for submitting an update and details of on-going discussions regarding how the Applicant and the LHA are working together to resolve the issue of fly-parking has been moved to Deadline 4, however, we consider it might be beneficial to the ExA to provide a little background ahead of that submission.

The issue of parking in the residential streets is a matter that has been discussed at the London Luton Airport Consultative Committee (LLACC) on which the Council,

the Applicant and the airport operator (LLAOL) sit, together with adjoining Councils (including Central Bedfordshire Council, North Hertfordshire District Council, Hertfordshire County Council and Buckinghamshire Council) and various community groups (including LADACAN, PAIN, STAQS and SLAE).

The topic of airport related parking has been raised at the quarterly meetings of the LLACC on numerous occasions, with the Council advising members of the LLACC of a consultation in July/August 2017 to consider parking permits and waiting restrictions in part of the Wigmore and Vauxhall Park Estate. Following the consultation there was support for the implementation of a residents permit parking scheme in Vauxhall Park, though less support for one in Wigmore. The Vauxhall Park residents permit parking scheme has been operating since the end of 2021.

The Council has undertaken a town wide parking review which is currently in draft form and is considering how to take forward a strategy for parking. The Council will continue to engage with the Applicant, the airport operator and other stakeholders in its formulation. The Council will also continue to liaise with the Applicant in relation to measures to address and mitigate the effects of airport related parking in the adjacent residential areas. Discussions regarding the mechanisms for this are ongoing, though it is anticipated that mitigation will be linked to travel plan measures and the TRIMMA (Appendix I of the Transport Assessment [APP-202]).

In relation to Item 6: Monitoring, Mr Swift submitted that the Council is supportive of the TRIMMA as a framework for identifying the sequencing and type of intervention that needs to be brought forward. The Council awaits the terms of reference of the Airport Transport Forum (ATF) which will deliver the outputs of the TRIMMA, since the current ATF is a body that meets twice a year and comprises the airport operator, the local highway authority, local transport providers and other representatives recommended by the guidance in Annex B of the Aviation Policy Framework.

On Sustainable Transport (Item 7 on the agenda), Mr Fry noted that the only other matter that was outstanding was working with the Enhanced Transport Board, but that discussions were on-going and the ExA would be updated in due course.

ISH5: Air Quality

The LPA was represented by Mr Fry. In response to a question from the ExA about the Operational Air Quality Action Plan, Mr Fry drew the ExA's attention to the fact that on air quality the Statement of Common Ground (Rep2-020) recorded that most issues were agreed between the Council and the Applicant, however, in terms of the thresholds and limits in Green Controlled Growth discussion was on-going with the Applicant.

Arising from the Action Points associated with ISH5 (EV10-006) was a requirement for the Council to provide, by Deadline 3, a copy of the 2023 Air Quality Annual Status Report (ASR) that the Council provided to Defra in June 2023. The ASR is submitted with this response for the Examination Library.

ISH6: Biodiversity, Water, Land-use, LVIA, Design and Heritage

Mr Fry of counsel represented the LPA and was supported by a number of officers for this session.

On biodiversity the ExA raised questions about the loss of the Wigmore County Wildlife Site (CWS) and whether the replacement was considered mitigation or compensation. Following discussion with the Applicant, the ExA sought the views of the LPA and Mr Gurtler advised that the LPA considered the replacement habitats

for the loss of the CWS to be compensation and not mitigation. Additionally Mr Gurtler referenced the scale of the proposed loss of CWS against the approved New Century Park development (LPA ref: 17/0230/EIA), and the mitigation that was required through the Section 106 agreement associated with that permission.

Arising from Mr Gurtler's submission, Action Point 4 was a request to submit in writing the comments that were made with regard to the scale of the loss of the CWS within Wigmore Park associated with the extant planning permission for New Century Park.

The development of New Century Park would result in the loss of five hectares of the CWS, approximately one third of the CWS (paragraph 251 of Committee Report REP1-006). The Section 106 agreement associated with the New Century Park planning permission secured a CWS contribution of £250,000 to compensate for the loss of the 5ha and contribute to the management of 7.5ha of Dallow Downs CWS – now an SSSI (page 3 of REP1-008). Phase 1 of the Proposed Development will result in the loss of 11.5ha (74%) of the CWS (paragraph 8.9.3 of Chapter 16 of the Environmental Statement AS-027), whilst phase 2a results in the loss of a further 2.9ha (18.8%) of the CWS (paragraph 8.9.4 AS-027) and phase 2b a further 0.8ha (5.4%) leaving only the hedgerows and resulting in a total loss of 15.2ha (98.7%) of the CWS (paragraph 8.9.5 AS-027), three times the loss compared to the New Century Park development. In addition to the CWS contribution, the Section 106 agreement for New Century Park included a biodiversity contribution of £30,000 to provide for the creation and management of new habitats within the site

The New Century Park development also resulted in the loss of a significant number of trees associated with both the new access road and the creation of the business park. Whilst some replacement planting was proposed within the landscaping masterplan, the Council recognised that the need to manage the risk of bird strike near the airport meant that to compensate for the loss of trees, off-site provision in other areas of parkland within the borough would be required. A replacement tree contribution of £35,000 was therefore included within the Section 106 agreement.

To date there have been no discussions with regard to a Section 106 agreement associated with the proposed development, and in order to inform those discussions it would be useful if the Applicant provided a table that set out areas of habitats that were being lost (such as the District and County Wildlife Sites) and the areas of new habitats that were being created. Also taking into account the obligations that are secured through the New Century Park planning permission.

Whilst Chapter 14 of the Environment Statement (AS-027) and the Outline Landscape and Biodiversity Management Plan (AS-029) identify the creation of new habitats as mitigation, the LPA does not consider this to be mitigation for the loss of the CWS but rather compensation. There is also tacit recognition of this in Chapter 14 of the Environmental Statement which recognises that the new habitats to replace the loss of the Wigmore CWS and circa 20% of the Dairyborn Scarp DWS would take some time to establish to a level of equivalent biodiversity.

In our LIR we noted that the level of biodiversity net gain (BNG) did not maximize the opportunity (paragraph 4.10.6) and given the loss of the CWS, the LPA considers that the Applicant should be looking to go further than the minimum requirement (the Environment Act 2021 says "at least 10%"), and consequently the LPA recommends 20% in line with the Ox-Cam Arc aspirations.

In the issue specific hearing Mr Gurtler also made reference to the timeframe associated with the Outline Landscape and Biodiversity Management Plan, which whilst referring to a fifty year period from planting commencing on the main site (paragraph 1.4.1 of AS-029), concentrates on the standard five year contractor's maintenance period, which will not be adequate for some of these new habitats to become established. We consider that greater certainty is required in relation to securing the commitment to the ongoing management and maintenance of the landscaping and habitats associated with the development. It may be that this is provided when discussion occurs in relation to the proposed Section 106 agreement, since the Heads of Terms in the Planning Statement (paragraph 5.8.8 in AS-122) include reference to the future management of Wigmore Valley Park.

With regard to water resources discussed at Item 3 in ISH6, the Council did not make any oral submissions, however, the Council as Lead Local Flood Authority and LPA, notes that there are on-going conditions associated with surface water and drainage infrastructure in the original 2012 planning application (LPA ref: 12/01400/FUL) and subsequent Section 73 Variation (LPA ref: 12/01400/FUL), and would expect to see these carried forward.

The baseline for the Proposed Development assumes full implementation of the aforementioned conditions before Phase 1. In consequence, the baseline would need to be amended (in due course) to incorporate any activities that are yet to be completed.

The LPA supports the position of the Environment Agency in relation to securing appropriate quality of water discharges to the ground and the River Lea.

In relation to the proposed change to the drainage strategy (AS-152), the LPA would require careful consideration of the impacts of any additional effluent discharges transported within the Thames Water sewerage network and/or treated at the East Hyde Waste Water Treatment Works, taking into consideration the waste water conveyance and treatment capacity that is required to accommodate the planned housing growth in the treatment work's catchment area.

The LPA supports the proposed water efficiency measures and echoes the request of Affinity Water for firmer assurances that these will be met and any current and future drinking water infrastructure will be appropriately protected during construction and operation of the Proposed Development.

Mr Gurtler was asked two questions by the ExA in relation to Item 7: Heritage. Firstly in relation to Wigmore Hall Farmhouse, Mr Gurtler confirmed that he had seen the Applicant's response to the LPA's LIR at Deadline 2A (REP21-007) and that he considered the heritage assessment had been carried out and was fair.

A further question related to the Grade II listed Hart House and whether the LPA was looking for this to be assessed. Mr Gurtler accepted that he had not recognised the reference to Vauxhall Office Block was in fact Hart House and he agreed that he would look at the Cultural Heritage Desk Based Assessment again and reconsider the comment in the LIR (REP1A-004). Action Point 37 picks this up and required the LPA to review the desk based assessment in relation to the effects of the proposed development upon the Hart House. The Cultural Heritage Desk Based Assessment (APP-072) scoped out the building for further assessment since it considered that the development site does not contribute to the setting of the heritage asset.

In determining whether the conclusion of the desk based assessment is reasonable, it is necessary to consider the elements of the development that might impact upon the listed building. There are two elements of the development at the western periphery of the airport that could affect the setting of the listed building, namely the proposed multi-storey P1 car park and the surface P2 parking. However, these are separated from the heritage asset by the large industrial Daily Express building, as well as the main railway line and the DART (in the case of the P1 car park). Additionally, the LPA has previously granted planning permission for the Bartlett Square development, which would have entailed the erection of an eight storey hotel building to the west of the listed building with a five storey extension to the south, a six storey office building to the west of the hotel, a nine storey office building to the south of that, and an eight storey multi-storey car park to the south-east of the listed building (LPA ref: 18/00271/EIA). Given the scale of development surrounding the listed building that the LPA has previously considered acceptable, together with the residential development taking place on the north side of Kimpton Road, the conclusion to scope the Vauxhall Office Block (Hart House) out of further assessment is considered by the LPA to be reasonable.

The final action point arises from the AOB and relates to the cross boundary application associated with the proposed solar farm within 106 hectares of land north east of Wandon End. The main application falls within North Hertfordshire District Council's administrative area, however, underground cables associated with the proposed solar farm are within Luton and consequently the application has also been submitted to Luton for determination (LPA ref: 22/01657/FUL). The application is pending consideration and it is not possible at this stage to advise when it might be determined.

The Council will continue to engage with the Applicant to address matters that were discussed in the Issue Specific Hearings and provide updates and responses to assist the ExA in its task.

Yours sincerely

A solid black rectangular box used to redact the signature of Sue Frost.

Sue Frost
Service Director
Sustainable Development