

LONDON LUTON AIRPORT EXPANSION

ISSUE SPECIFIC HEARING 6 (ISH6) ON ENVIRONMENTAL MATTERS (ISH6) FOCUSING ON BIODIVERSITY/ WATER/ LAND USE/ HERITAGE/ LANDSCAPE AND VISUAL/ DESIGN AND ANY OTHER MATTERS

29 SEPTEMBER 2023

POST HEARING SUBMISSIONS

HERTFORDSHIRE COUNTY COUNCIL, NORTH HERTFORDSHIRE DISTRICT COUNCIL, DACORUM BOROUGH
COUNCIL

1. INTRODUCTION

- 1.1 This document sets out the post hearing submissions and summarises the oral submissions made jointly by Hertfordshire County Council, North Hertfordshire District Council and Dacorum Borough Council (together, **“the Hertfordshire Host Authorities”**) at Issue Specific Hearing 6 (**“ISH6”**) held on 29 September 2023 in relation to Luton Rising’s (**“the Applicant”**) application for development consent for the London Luton Airport Expansion Project (the **“Project”**).
- 1.2 ISH6 was attended by the Examining Authority (the **“ExA”**), the Applicant, the Hertfordshire Host Authorities, together with a number of other Interested Parties.
- 1.3 Where the ExA requested additional information from the Hertfordshire Host Authorities on particular matters, or the Hertfordshire Host Authorities undertook to provide additional information during the hearing, the Hertfordshire Host Authorities’ response is set out in or appended to this document.

- 1.4 This document does not purport to summarise the oral submissions of parties other than the Hertfordshire Host Authorities, and summaries of submissions made by other parties are only included where necessary in order to give context to the Hertfordshire Host Authorities’ submissions in response.
- 1.5 The structure of this document generally follows the order of items as they were dealt with at ISH6 set out against the detailed agenda items published by the ExA on 19 September 2023 (the “**Agenda**”).

2. **SUMMARY OF ORAL SUBMISSIONS MADE**

PINS Agenda Item	Response
5 Landscape and Visual	
Approach to methodology of the Landscape and Visual Impact Assessment (LVIA).	<p>The methodology follows the generally recommended approach set out in Guidelines for Landscape and Visual Impact Assessment (GLVIA3) and references some project specific guidance such as that provided by the Civil Aviation Authority CAA). However, there are limitations as set out below:</p> <p>Sensitivity of landscape/visual receptor – the methodology sets out criteria relating to value and susceptibility but not how these factors combine to result in overall receptor sensitivity</p> <p>The LVIA Methodology (Appendix 14.1 section 5.5 (landscape) and 6.4 (visual) [AS-036] describes the approach to landscape sensitivity (paras. 5.5.1 – 5.5.4 describes the approach to susceptibility/value and 5.5.5/6.4.4 describes how overall sensitivity is determined). It is the approach set out in 5.5.5 which needs to be questioned – it does not describe how susceptibility and value are combined to result in sensitivity:</p> <p><i>“5.5.5 The landscape sensitivity is dependent on the development being considered and the ability of the existing landscape to accommodate the perceived changes. Landscapes vary in their capacity to accommodate different forms of development. In general terms, a landscape of very high sensitivity would have low ability to accommodate change of the type proposed and a landscape of low sensitivity would have some ability or likelihood to accommodate change of the type proposed.”</i></p> <p>The issue was originally raised in the Hertfordshire Host Authorities’ Relevant Representations [RR-0558] (paras. 8.7.8 and 8.7.9). The Applicant’s Response to the Relevant Representations [REP1-021, p.167] does not address the issue and appears to relate at least partially to susceptibility rather than overall sensitivity:</p>

“Landscape Sensitivity is a product of Landscape Susceptibility and Value so descriptors are not considered necessary. Table 5.4 (Appendix 14.1 of the Environmental Statement [AS-036]) provides the Sensitivity ratings.”

The position remains unresolved. Additional descriptive text or tabular matrix is required to provide the framework for determining the sensitivity of landscape and visual receptors to provide confidence that sensitivity levels in the LVIA have been determined appropriately as the basis for accurate assessment, as requested by the Hertfordshire Host Authorities [RR-0558]. GLVIA sets out the recommended approach to determining sensitivity. (P.40 para 3.28 is of particular relevance).

The Hertfordshire Host Authorities also note the Natural England Relevant Representation [RR-1027] p.15, para. 4.16, which requests further justification and explanation of the sensitivity applied to receptors within the Area of Outstanding Natural Beauty (AONB).

Spatial scope of assessment – Flight paths/AONB and LVIA figures

In relation to spatial scope the LVIA [AS-079] states that the study area extends 5km from the perimeter of the application site. This is reasonable in relation to the area defined by the main order limits. However, it is not understood how this extends to assessment in relation to aircraft movements/ flight paths/effects on the AONB. The LVIA (Para 14.3.5) (AS-079). states in relation to definition of the study area that:

.... “for considering effects on tranquillity, additional land within the Chilterns AONB where aircraft would be below 7,000 ft”

However, this extent of *additional land* or the range of receptors within it is not described or defined in figures. The Chilterns Conservation Board states in its scoping consultation response [APP-168], p.3:

“6. Zones of influence for the development (summarised in Figure 21.1 in Vol 2) have been drawn far too closely. Much wider zones are needed for all 6 categories. Assessments must include the area under the flightpaths.....”

The issue relating to the extent and definition of study area/spatial coverage is raised in Hertfordshire Relevant Representations [RR-0558] para. 8.2.2. There are also inconsistencies in figure scales and consistency of presentation. The Applicant's response [REP1-021] that the matter is 'not material'. However, providing a consistent, comprehensive set of figures would aid understanding.

The Hertfordshire Host Authorities have previously requested that the proposed assessment of the Special Qualities of the AONB by the Applicant sets out the spatial scope of the assessment in relation to the defined flight paths across the AONB and identifies the range of landscape and visual receptors which could potentially be significantly affected [RR-0558].

Tranquillity Assessment

Chapter 5 Approach to the Assessment [AS-075] para. 5.9.23 states that;

"There is no universally accepted standard methodology for assessing tranquillity. However, a bespoke methodology has been developed by the relevant competent experts undertaking assessments for noise, cultural heritage, and landscape and visual impacts".

Appendix 14.1 - LVIA Methodology [AS-036] sets this approach out in para 5.2.5 but it does not seem to be consistently applied in the assessment. For example, it is not understood how the baseline levels of tranquillity (and other perceptual qualities) have been determined within relevant parts of the Chilterns AONB. The Campaign to Protect Rural England (CPRE) tranquillity mapping has been referenced for the area around Luton and the airport site but not for the AONB.

The Hertfordshire Host Authorities have previously requested clarification of the approach to tranquillity assessment and how this approach has been implemented in the LVIA, to ensure the process used to establish baseline conditions and the subsequent assessment is robust [RR-0558].

Action Point 38 arising from ISH6

Action Point 38 arising from ISH6 requires the Hertfordshire Host Authorities to provide additional comment relating to setting of St Paul's Walden Bury and the impact of overflights on relative tranquillity. The Hertfordshire Host Authorities are concerned regarding the potential for the Proposed Development to

	adversely affect the setting of St Paul's Walden Bury Park and Garden and the impacts of increased overflights on relative tranquillity.
<p>Appropriateness of the photomontages / visualisations.</p>	<p>Viewpoint Parameters</p> <p>Viewpoint parameters are not included in the Accurate Visual Representation (AVR) Figures [AS 141-145].</p> <p>The Hertfordshire Host Authorities requested that viewpoint parameters are included in the figures rather than having to cross reference separate documents. This is in accordance with guidance set out in the Landscape Institute technical guidance note, Visual Representation of Development Proposals (LI TGN 06/19) P.5, Para. 2.3.</p> <p>Accurate Visual Representations</p> <p>The Accurate Visual Representations (AVR) use simple massing models to represent proposed development are helpful in terms of illustrating scale and mass but more limited in terms of illustrating design intention.</p> <p>The Hertfordshire Host Authorities requested more detail to illustrate how building elevations of the proposed development will be perceived particularly in relation to viewpoints to the north and east. Example; 10B, 13, 14 [AS-141], 56, 61 [AS-145].</p> <p>Graphic Overlays</p> <p>There are inconsistencies in the presentation in the graphic overlays. For example, it is not clear why trees/hedges are to be removed, or proposed to be illustrated with a yellow/white graphic rather than simply removed or added in image editing software. An example is Viewpoint 10B [AS-141], 29 [AS-143].</p> <p>The ExA asked what the Hertfordshire Host Authorities are still looking for from the Applicant in terms of photomontages and visualisations.</p>

Mr David Stokoe of WSP, for the Hertfordshire Host Authorities indicated that in relation to views from the north and east where you see large building elevations, the block model does not help understand the full visual effects. He confirmed that the Hertfordshire Host Authorities would like to see some viewpoints illustrated using accurate visual representations which more accurately provide an indication of proposed building finishes and building articulation and to work with the Applicant to agree which viewpoints should receive that treatment. Mr Stokoe confirmed that the Hertfordshire Host Authorities would like to see cross-sections to provide greater understanding of the Proposed Development in relation to existing landform, the proposed landform, and existing and proposed woodland/vegetation cover.

The ExA referred to the Hertfordshire Host Authorities' Local Impact Report, [REP1A-003] which says that the hedge on viewpoint AS-092 won't be planted until Phase 2B, but noted that the ExA's reading of it is [AS-102] that the hedge will be planted in Phase 1. The ExA asked if that something the Hertfordshire Host Authorities had noticed, and if not whether it changed the comments in the Local Impact Report.

The Hertfordshire Host Authorities can confirm that the planting referenced in the Local Impact Report [REP1A-003] is not that adjacent to viewpoint 28, rather it is that the planting that is on the eastern boundary of the water treatment/fuel compound that will not be delivered until construction Phase 2b 2037-2042, after the plant/facility which will be delivered in Phase 2a 2033-2-36. Therefore, there will be a gap between introduction of these structures and introduction of this mitigation planting. It is also noted that this planting belt is relatively narrow and a more substantial area would be more beneficial in terms of landscape and visual integration along this eastern boundary.

The ExA asked if the Hertfordshire Host Authorities are satisfied with the broader approach that has been taken to mitigation.

David Stokoe replied that in terms of the proposed landscape treatment that is illustrated in the masterplan, this is generally well considered and comprehensive. He indicated that the concern remains the mitigation of the effects of introducing large scale built development in that elevated situation, particularly from the east. He indicated that the landscape mitigation proposed does not fully mitigate the landscape effects of such large scale development. That is the issue rather than the details of the master plan that has been proposed.

The ExA queried whether this was more of a secondary mitigation and that the Hertfordshire Host Authorities would be seeking more primary mitigation. David Stokoe confirmed that was the point, in terms

	<p>of the overall design evolution and design objectives and how that has been considered in those documents.</p> <p>Action Point 24 arising from ISH6</p> <p>Action Point 24 arising from ISH 6 required the Hertfordshire Host Authorities to confirm the changes required to the visuals received on 9 August 2023, particularly viewpoint 28.</p> <p>The viewpoint is based on winter viewpoint photography and therefore it is considered that the proposed hedgerow illustrated in the foreground of the view should represent the vegetation cover in winter. It is likely the hedgerow would be deciduous therefore illustrated hedge should be devoid of leaf cover.</p> <p>It is important to note that viewpoint 28 is a single point used to represent the visual experience of footpath users of Footpath (Kings Walden 43). In reality the visual experience of these footpath users will be sequential and constantly changing as people walk along the path.</p>
<p>Assessment findings in respect of landscape and visual effects.</p>	<p>The Hertfordshire Host Authorities are in general agreement with most assessed levels of effects but note the following:</p> <p>Effects in relation to the Chilterns AONB</p> <p>Reporting does not provide the level of detail required. Effects in relation to Special Qualities are not assessed, as noted in the Hertfordshire Host Authorities’ Relevant Representations [RR-0558] para. 8.3.7.</p> <p>Policy Compliance</p> <p>In relation to effects on the AONB the Hertfordshire Host Authorities’ Local Impact Report [REP1A-003] p.47,48 paras 7.10.11 and 7.10.12 states that:</p> <p><i>“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.”</i></p>

and

“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.”

In relation to visual effects the Hertfordshire Host Authorities’ Local Impact Report **[REP1A-003]** P.49 states that:

“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.”

and

“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.”

Perceptual qualities and key characteristics of landscape character areas (LCA)

A descriptive narrative in support of the assessment findings is generally lacking particularly relating to perceptual landscape qualities Hertfordshire Host Authorities’ Relevant Representations **[RR-0558]** para. 8.3.7 and 8.8.3. The following example in relation to effects on a LCA is typical - the response references tranquillity but the assessment does not relate to the specific qualities of the LCA or other characteristics:

“The aircraft movements associated with the airport’s operation at the year of maximum aircraft movements capacity are considered to deteriorate the tranquillity of this LCA to some extent. The magnitude of landscape impact on this receptor is judged to remain low adverse”

The Applicant’s response is set out in the Applicant’s Response to Relevant Representations **[REP1-021]**, P.168. The Applicant states that aesthetic and perceptual qualities are considered in Appendix 14.4 **[APP-091]**. The Hertfordshire Host Authorities’ position remains that the assessment lacks detail in relation to the consideration of perceptual qualities in the Landscape Assessment.

Chiltern Hills Area of Outstanding Natural Beauty and assessment of Special Qualities.

Special Qualities

AONB Special Qualities are not considered as stated in the Hertfordshire Host Authorities' Relevant Representations [RR-0558] para.8.3.7. Although it is acknowledged that the Applicant has agreed to provide this assessment as set out in the Applicant Response to Relevant Representations [REP1-021] p.168, the assessment should also consider potential effects on visual receptors and landscape character within the AONB or justify why they are excluded.

The Natural England Relevant Representation [RR-0227] requests an assessment of the Special Qualities, particularly highlighting two of these qualities; tranquillity..... and panoramic views.... Natural England also note increased air traffic over the AONB, paras. 4.17 – 4.19 and Road traffic impacts para 4.20. The Hertfordshire Host Authorities' position is that increased air traffic movements are the principal landscape and visual issue.

The Hertfordshire Host Authorities will review the Applicant's AONB Special Qualities Assessment when this becomes available and provide more detailed response.

AONB Boundary Review

Natural England raises the AONB boundary review [RR-0227] stating that this may *"be a relevant matter in the determination of the development proposal."*

The Chilterns Conservation Board also raises the matter [RR-0227] as follows;

"The examination into the DCO should also take account of the proposed expansion of the Chilterns AONB, currently being investigated by LUC on behalf of Natural England. The area of search for the potential AONB designation has not yet been published, but is likely to include land in the vicinity of the airport"

The Hertfordshire Host Authorities need further time to consider the implications of this issue, once the assessment in relation to Special Qualities has been provided by the Applicant. The Hertfordshire Host Authorities would welcome engagement with the Applicant on issues affecting the AONB.

<p>Effects from lighting.</p>	<p>The Landscape and Visual Impact Assessment [AS-079] has interpolated the data from the lighting assessment to inform judgements relating to night-time effects. It is reasonable to use some of this information, but a specific night-time methodology should be adopted to inform the assessment. Lighting is considered alongside other aspects of the visual assessment rather than as a specific assessment.</p> <p>The lighting assessment does not specifically address night-time effects on the AONB other than to state in Table 14.5: Landscape and visual Scoping Opinion comments [AS-079] p.9/10 that:</p> <p><i>“the visible effects of obtrusive light within the Chilterns AONB resulting from the Proposed Development, would not be noticeable in the context of wider sky glow observed during the time of survey”.</i></p> <p>More detail regarding the methodology used and a more comprehensive assessment of night-time effects is required and is requested by the Hertfordshire Host Authorities.</p> <p>Viewpoints 10B, 13, 14 [AS-141], 56, 61 [AS-145] should be updated to include new light sources in skyline views (particularly relating to some of the larger structures proposed) which may be directly visible and not just assimilated into the general perception of ‘skyglow’ as stated in the LVIA [AS-079]</p>
<p>Suitability of mitigation measures, the strategic landscape masterplan [APP-172] and the adequacy of Requirement 9 of the draft Development Consent Order (DCO).7</p>	<p>The general approach developed during the consultation process towards landscape mitigation set out in table 14.6, P.21/22 [AS-079] is generally considered to be appropriate.</p> <p>The strategic landscape masterplan [APP-172] is generally appropriate, comprehensive and well considered. The Hertfordshire Host Authorities Relevant Representations [RR-0558 RR-1119 RR-0297] request more detail on long term management. The Applicant’s Response [REP1-021], p.48, is that a trust would be established and that the Applicant would fund the trust.</p> <p>Extensive earthworks are proposed and more detail is required to understand how the proposed landform will relate to the existing landscape context.</p>

	<p>The design approach in relation to siting large scale buildings in an elevated situation is not clearly articulated. Para. 14.8.9 [AS-079] states that:</p> <p><i>“b. the use of muted surface finishes on proposed building elevations and, where feasible, airfield equipment;”</i></p> <p>However, the design principles in relation to building design, particularly relating to the introduction of large scale structures in an elevated situation, need to be set out in more detail to ensure that this aspect is considered in the emerging architectural design.</p> <p>Fiona Ross, for the Hertfordshire Host Authorities, noted that the wording in Requirement 9 of the draft DCO generally appears to be adequate but note the query in the Local Impact Report [REP1A-003] P.74, para 9.1.35 regarding use of ‘reflect’ rather than ‘substantially in accordance with’ relating to the strategic masterplan document.</p>
<p>7 Heritage</p>	
<p>Assessments of effects and harm on designated heritage assets with a focus on the assets where disagreement exist between parties</p>	<p>The host auth authorities still feel that the language used in the ES (specifically the Cultural Heritage Gazetteer) [APP-073] is liable to confusion as it does not adequately convey why assets are specifically scoped out of the assessment. The setting of these assets needs to be understood before the host authorities can then assess whether an asset's setting would be changed by the Proposed Development.</p> <p>Appendix 10.2 Designated Heritage Assets Gazetteer of the ES [APP-073] scopes designated heritage assets on the grounds that “The setting of this asset does not extend into the Site.”</p> <p>The Applicant has noted in the Applicant’s Response to the Local Impact Report [REP2A-006] that the term in the Gazetteer [APP-073] does not relate to the spatial extent of a heritage asset’s setting, as setting cannot be defined by a fixed extent. The Applicant further notes that assets have been scoped out where components of their setting are not present within the Site and/or would not change as a result of the Proposed Development. However, reviewing this issue again, the conclusion is that the language used is still liable to confusion as it does not adequately convey why assets are specifically scoped out of the assessment. The setting of these assets needs to be understood in the Gazetteer; the Hertfordshire Host Authorities can then assess why an asset's setting would not be changed by the Proposed Development.</p>

<p>Designated and non-designated heritage assets raised by parties where assessments of effects and harm are required.</p>	<p>No comments</p>
<p>The assessment approach undertaken to impacts on setting of designated heritage assets from noise and whether this is sufficient.</p>	<p>The ES Chapter 10 Cultural Heritage [AS-077] notes at paragraph 10.7.38 and paragraph 10.7.44 that 'quietness' does not contribute to the setting of specified heritage assets. Paragraph 10.7.38 refers to scheduled monuments specified at paragraph 10.7.37. Paragraph 10.7.44 refers to registered parks and gardens specified at paragraph 10.7.43, including the Grade II* Knebworth Registered Park and Garden (parks and gardens will also have individual designated heritage assets located within them, in the case of Knebworth for example, multiple heritage assets of the highest significance).</p> <p>Tranquillity is an important component of the setting of registered parks and gardens, and although setting may have been changed by later developments (notably by current aircraft movements, as well as from other sources) the Proposed Development could further detract from that setting. This issue should also be considered for assets scoped into the assessment (e.g., the Grade I St Paul's Walden Bury Registered Park and Garden).</p> <p>The host authorities disagree with the Applicant's comments in ES Chapter 10 Cultural Heritage [AS-077] that quietness does not contribute to the setting of specified heritage asset, and question whether ES Chapter 10 Cultural Heritage [AS-077] has downplayed the importance of tranquillity as a component of these assets' setting, particularly in the case of registered parks and gardens.</p> <p>Additionally, Historic England's GPA3 on cumulative change sets out clearly that: 'Where the significance of a heritage asset has been compromised in the past by unsympathetic development affecting its setting, to accord with NPPF policies consideration still needs to be given to whether additional change will further detract from, or can enhance, the significance of the asset.' The host authorities would wish to ensure that cumulative impact on tranquillity is adequately assessed.</p>
<p>Suitability of mitigation measures and the adequacy of Requirement 16 of the draft DCO in securing this.</p>	<p>Fiona Ross for the Hertfordshire Host Authorities indicated that Requirement 16 should use the language of 'reflect' rather than 'substantially in accordance with'.</p>

Action Point 40	<p>Action Point 40 arising from ISH2</p> <p>Action Point 40 arising from ISH2 requires North Herts Council to confirm the timing of the decision for the Wandon End solar farm planning application.</p> <p>North Hertfordshire Council is awaiting amendments to the scheme which fall within their administrative boundary and will be subject to re-consultation. It is realistic that the proposal could be reported to the Planning Control Committee in January 2024. If the resolution is to grant planning permission, the application will then need to be referred to the SoS (as it is within the Green Belt).</p>
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