



Hertfordshire Host Authorities

HERTFORDSHIRE HOST AUTHORITIES' RESPONSES TO THE APPLICANT'S RESPONSES TO WRITTEN REPRESENTATIONS

London Luton Airport Expansion

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1 INTRODUCTION

1.1 PURPOSE OF THIS DOCUMENT

- 1.1.1. This document represents a table of responses to the Applicant's responses to the Examining Authority's Written Questions [REP2-035] to be submitted to Deadline 2. It has been prepared jointly by Dacorum Borough Council ("DCC"), North Herts Council ("NHC") and Hertfordshire County Council ("HCC"), in collaboration with their technical consultants, together as the "the Councils" to set out further comments considered necessary in detailing the impacts upon the local area of the Applicant's proposed London Luton Airport Expansion Project ("the Proposed Development").
- 1.1.2. For each issue, the Host Authority(ies) to which the issue relates has/have been identified in the final column of the table.
- 1.1.3. Where a point by the HAs has been noted by the Applicant, the point has not been referenced further in the table below.



2 THE HAS' RESPONSES TO THE APPLICANT'S RESPONSES TO WRITTEN REPRESENTATIONS

Table 2-1 – The HAs' Responses to the Applicant's Responses to Written Representations

Ref.	Topic	Matters Raised in Written Representation	Applicant's Response	HAs' Response
2.2	Planning	<p>The Councils place the highest levels of emphasis on the importance of addressing the environmental impacts, and controls and mitigation, in dealing with this planning balance. This includes but is not limited to: air quality, health and community; surface access; noise, emissions and landscape and visual impact, and together with any cumulative effects.</p> <p>It is imperative that the decision 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 in the same way that they do the Applicant and Luton Borough Council, and that the adverse environmental effects must carry full weight in the decision making process, and in relation to any mitigation, including through requirements, s106 Obligations and the Green Controlled Growth (GCG) Framework.</p>	<p>The Planning Statement [AS-122] notes that, whilst it has not been possible to avoid all adverse impacts, these have been minimised, where possible, through careful design and detailed and innovative mitigation strategies. It concludes that the substantial benefits of the Proposed Development clearly and demonstrably outweigh any residual harms that would arise with the proposed suite of mitigation measures in place. The Proposed Development is compliant with national aviation policy, national planning policy and the relevant development plan documents when taken as a whole.</p>	<p>The Councils have reviewed the arguments that the Applicant has set out in the planning statement and other application document. However, the Councils maintain an in-principal objection to the application, for the reasons set out in their submissions to the Examining Authority.</p>
3.2	Need case	<p>The major influence on demand at Luton is the airport capacity available and its utilisation at Stansted, Gatwick and Heathrow, which in turn depends on whether a new runway is built at Heathrow or the emergency runway at Gatwick is brought into regular use.</p>	<p>Full consideration has been given to the potential utilisation and delivery of additional capacity at the other main London airports and sensitivity tests carried out, as set out in Section 6 of the Need Case [AS-125]. It is understood that the Host Authorities, in combination, have now appointed CSACL to review the demand forecasts and a dialogue is ongoing. A separate response is being prepared to the Initial Report received from CSACL, which we understand will be submitted to the ExA at Deadline 2.</p>	<p>A response to the Applicant's response to the CSACL report is in preparation.</p>
3.3	Need case	<p>There remains considerable uncertainty, and considerable down-side risks that the forecasts are likely to be too high. The risk, therefore, is that the need case and economic benefits may be overestimated, and this should be weighed in the planning balance with the environmental impacts.</p>	<p>The Applicant considers that the demand forecasts are robust and that the assessment of the economic benefits of the Proposed Development deriving from those forecasts is robust.</p>	<p>The issue remains that if the base case should be the slower case of 2049 and not 2043 for 32 MPPA, the economic benefits and job creation will accumulate at a slower rate than projected. This is important in relation to the planning balance with environmental impacts. Engagement with the applicant in relation to forecasts is ongoing (Ref 3.2).</p>



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3.4	Need case	This is also the case with economic benefits, that are linked to ATM growth, and if the growth does not occur as projected the benefits may not be realised, or may be delayed. The actual economic benefits for the Councils in Hertfordshire are also at risk of being over optimistic, as it becomes more difficult to estimate these direct, indirect, and induced benefits over a larger area, further away from the Proposed Development and its main conurbation, Luton.	If growth is slower than anticipated in the Core Planning forecasts, the delivery of benefits would be later, but the environmental consequences would also be realised at a later date. It is for this reason that Faster and Slower Growth Cases were set out in the Need Case [AS-125] (Section 6). The environmental implications of these Faster and Slower Growth Cases were examined quantitatively or qualitatively as appropriate in the environmental statement.	Noted. The slower growth case - need and benefits, needs to be considered in the planning balance against the reasonable worst case environmental impacts.
4.2	Community First Fund	The Fund is eligible to 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 (AS-128), it might be advantageous if the scheme could be designed for flexibility at the outset – for example, to enable uplift the maximum £25,000, to shift funding between the currently proposed 60/40 (Luton/elsewhere) split were there to be an annual / ongoing deficit, to enable underspend to be rolled forward for future use, and so on.	Community First has a review process built in. The maximum size of grant awards is one of the elements to be reviewed at regular intervals and it is anticipated that as the size of the annual Community First contribution increases with growth of passenger numbers, the maximum size of available grants would be increased to avoid the scenario described. Similarly, as the fund grows, and giving due consideration to the number and quality of grant applications, the review process may consider widening, or changing the funding themes in any given period. Should the value of awards in any year be less than the fund available then the surplus will be carried forward into the following year. The review period can be less than 5 years if there is good reason for this. The Applicant considers that, in the early years of the fund, with a relatively modest annual fund size, a £25,000 cap is appropriate to ensure that awards are distributed across a wide range of grant applications.	Noted. The Host Authorities' position remains.



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5.2	Air Quality	<p>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. The method is an update to that given in the current version of DMRB LA 105 (revision 0) which attempts to address ammonia emissions from road traffic (a factor that was previously omitted). Given Natural England's concerns regarding the methodology as written in LA 105 (revision 0) and the opaque nature of the updated National Highways methodology used by the Applicant (it is not readily available in the public domain for scrutiny), the Councils require assurance that Natural England is satisfied with the science behind the method used and for details this method to be visible to all in the public domain.</p>	<p>The Applicant considers that the issue raised regarding the method of determining impacts on ammonia and nitrogen deposition was answered within the Applicant's Response to Relevant Representations Part 2A of 4 (REP1-021) page 58, in response to RR0558, RR-1119, and RR-0297.</p>	<p>Statement of Common Ground [REP2-041] between London Luton Airport Limited and Natural England SoCG ID 3.3.1 (page 6) indicates that this matter has been agreed. No further comments at this stage.</p>
5.3	Air Quality	<p>Of particular concern is the adequacy of the proposals under the GCG Framework to monitor air quality and airport related emissions, and how monitoring is to be used to ensure that emissions can be proactively managed to minimise – as far as is practicable – the risks of causing acute and chronic health impacts. The current GCG Framework proposal, which is for monitoring of annual mean concentrations only, is completely inadequate in this regard as it does not enable detection of and action to address relatively short-term spikes in concentrations that relate to acute health impacts. The proposed approach also relies on indicate methods for particulate matter monitoring which are inadequate for demonstrating compliance with standards.</p>	<p>The Applicant considers that the issue raised regarding short-term air quality monitoring was answered within the Applicant's Response to Relevant Representations Part 2A of 4 (REP1-021) page 25, in response to RR-0558 and RR-0297.</p>	<p>The Applicant's response is noted, however it does not adequately address the matter. The GCG Framework [APP-218 and APP-222] thresholds for air quality do not address short-term pollution events which can trigger acute health impacts. The Applicant should confirm how short-term pollution events – especially in relation to PM2.5 – will be captured and addressed by the Applicant to ensure that airport is not the cause. (For PM2.5, the Hertfordshire Host Authorities have suggested adopting the World Health Organisation interim target 3 for the 24-hour mean concentration of 37.5 micrograms per cubic metre, not to be exceeded more than 3-4 days per year.)</p> <p>Also, the Herts Host Authorities remain concerned that the indicative ('AQ-Mesh') continuous monitoring method proposed by the Applicant would not meet Defra's reference method equivalence criteria for particulate monitoring [REP1A-003, paragraph 7.7.15]. Indicative methods are generally not fit for purpose for demonstrating compliance and cannot be relied upon to capture short-term pollution events.</p> <p>It is welcomed that the Applicant "...is happy to liaise with the councils on the details of future monitoring proposals." [REP1-021, page 27].</p>



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6.1	Biodiversity	Legislation, Policy and Guidance The legislation, policy and guidance referred to in ES Chapter 8 Biodiversity [PINS Ref: AS-027] are broadly appropriate. The Councils do however maintain a request that additional information is provided on how judgments within ES Chapter 8 Biodiversity [PINS Ref: AS-027] are made at a local level which will be those directly relevant to the Councils. While it is not considered that the outcomes of the Habitats Regulations No Significant Effects Report (NSER) are directly relevant to the Councils, it is noted that no legislation or guidance is referred to within the document.	The Applicant considers that the issue raised regarding legislation, policy and guidance referred to in ES Chapter 8 Biodiversity, was answered within the Applicant's Response to Relevant Representations Part 2A of 4 (Local Authorities) [REP1-021] page 68-69, in response to RR-0558 RR-1119, RR-0297, RR-0558, RR-1119 and RR-0297. The Applicant considers that the issue raised regarding the lack of impact pathways was answered within the Applicant's Response to Relevant Representations Part 2A of 4 (Local Authorities) [REP1-021] page 159, in response to RR-0558, RR-1119 and RR0297.	The Host Authorities note the Applicants Response to Relevant Representations Part 2A of 4 (Local Authorities) [REP1-021, page 68-69] .
6.3	Biodiversity	Assessment of Significant Effects 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. While it is understood that the CWS does not lie within the boundaries of the Councils, areas identified for enhancement are directly relevant as these fall within North Hertfordshire. Clarity is required on the basis of the enhanced areas; ES Chapter 8 Biodiversity [PINS Ref: AS027] does not directly assess them as compensating for the loss of the CWS. The scope and premise behind the enhanced areas is therefore unclear.	The Applicant considers that the issue raised regarding the areas identified for enhancement, was answered within the Applicant's Response to Relevant Representations Part 2A of 4 (Local Authorities) [REP1-021] page 71-72, in response to RR-0558, RR1119 and RR-0297.	The Host Authorities note the Applicants Response to Relevant Representations Part 2A of 4 (Local Authorities) [REP1-021, page 71-72] . While the Host Authorities disagree that the loss of a County Wildlife Site does not require defined 'additional' mitigation to compensate, it welcomes the information summarised from the Outline Landscape and Biodiversity Plan (OLBMP). It would have been preferable to have included this information within the Biodiversity ES chapter so that a fully transparent assessment rationale could be presented.
6.4	Biodiversity	Notwithstanding comments given above about the premise behind the scope of enhanced areas, further clarity is outstanding on how mitigation is framed within ES Chapter 8 Biodiversity [PINS Ref: AS-027]. Several measures are proposed for receptors that are not considered to have significant effects in the assessment e.g., birds. The process of identifying the required additional mitigation should be clarified.	The Applicant considers that the issue raised regarding the mitigation proposed where no significant effects are considered, was answered within the Applicant's Response to Relevant Representations Part 2A of 4 (Local Authorities) [REP1-021] page 76, in response to RR-0558, RR-1119 and RR0297. It should be noted that mitigation is included not just for receptors with potential significant effects, but also where mitigation is considered appropriate and/or required for licensing purposes Biodiversity Net Gain in discussed and	The Host Authorities note the Applicants Response to Relevant Representations Part 2A of 4 (Local Authorities) [REP1-021, page 76] . Where mitigation is required for licencing purposes or BNG this should have been detailed explicitly within the ES chapter. It is also difficult to see how some features e.g., birds fall under either category.



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		<p>The Landscape and Biodiversity Management Plan (AS-029) summarises proposed actions relevant to biodiversity. It is noted that there is no mention of Biodiversity Net Gain (BNG) within the justification for areas and types of habitats proposed. If BNG is pursued and claimed, the LEMP should reflect and demonstrate the delivery of required Biodiversity Units.</p> <p>Proposals for habitat establishment and management are generally acceptable. Accountability for essential monitoring requires clarification. As the LEMP is partly intended to 'compensate' for the loss of an otherwise publicly accessible existing CWS, some accountability should be determined to demonstrate the aims of the compensation and wider BNG are being delivered on behalf of those LPAs and communities affected, at least in respect of major habitat provision. Whether this could be a Management Board on behalf of the LPAs affected will need to be considered; as such, wider governance of these proposals has not been addressed.</p>	<p>evidenced in the Biodiversity Net Gain Report Appendix 8.5 of the Environmental Statement [APP-067]. Within Table 7.2 of the Outline Landscape and Biodiversity Management Plan [AS-021], there is a commitment to monitor the condition of the newly created habitats in line with the Biodiversity Net Gain guidance provided within the Defra Metric 3.1.</p>	
8.1	Cultural Heritage	<p>The ES Chapter 10 Cultural Heritage [PINS Ref: AS-077] at paragraph 10.7.38 states that 'quietness' does not contribute to an asset's setting – but if an asset is, as an example, in a quiet, isolated rural environment, then a lack of noise would be expected – and is part of its isolated setting. The introduction of noise, from a road, railway, or airport, would have a bearing on any change to that asset's setting. As Historic England GPA3 notes: "significance is not dependent on numbers of people visiting it; this would downplay such qualitative issues as the importance of quiet and tranquillity as an attribute of setting" (Historic England, The Setting of Heritage Assets: Historic Environment Good Practice Advice in Planning Note 3 (GPA3) Second Edition, December 2017, page 4). This approach means that some assessments of effects are potentially not fully understood.</p>	<p>This matter incorrectly interprets what is stated in paragraph 10.7.38 of Chapter 10 Cultural Heritage the ES [AS-077]. Paragraph 10.7.38 is referring to specific heritage assets, where it is assessed that a quiet noise environment is not an important part of their setting that contributes to their heritage value. The ES does not state that 'quietness' does not contribute to all assets' settings and Section 10.5 of the ES explains when a specific noise environment, including quietness, would be a component of setting that contributes to heritage value.</p>	<p>As the Applicant's response notes, para 10.7.38 refers to specific assets and does not refer to all assets.</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). 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 is in line with Historic England's GPA3 on cumulative change: "<i>Where the significance of a heritage asset has been compromised in the past by unsympathetic development affecting its</i></p>



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				<p>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." 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). The Host Authorities would like to see more consideration given to this issue, as well as further clarity as to why individual designated heritage assets within registered parks and gardens are not assessed separately (for example the Grade I St Paul's Walden Bury Registered Park and Garden. The assessment notes potential impacts to the asset at paragraph 10.9.86 to 10.9.88 – but does not include potential impacts to individual heritage assets located within it).</p>
8.3	Cultural Heritage	Appendix 14.7 Accurate Visual Representations of the ES [PINS Ref: APP78] includes wirelines for some views and block forms for others. This seems to contradict the consultation response received from Historic England (dated 14.12.2021) contained in the ES Chapter 10 Cultural Heritage [PINS Ref: AS-077] at Table 10.6 which specifically notes that "HE (Historic England) requested that photomontages used solid block colour." The absence of this consistent approach means potentially that changes to the setting of heritage assets (for example, through changes to the wider historic landscape), resulting in impacts on the historic environment, or significant impacts on the historic environment, cannot be fully understood. This means that some assessments of effects are potentially not fully understood.	This matter is addressed in the Statement of Common Ground to be submitted at Deadline 2 [TR020001/APP/8.15] item no. HCC129.	<p>The issue of visual representations was discussed and agreed in the SoCG: specifically, the use of wirelines and block forms.</p>
8.4	Cultural Heritage	In respect of the impact assessment, there needs to be more detailed explanations as to why assets would not be impacted or significantly impacted by noise and vibration. The assessment should include detailed cross-referencing throughout to ES Chapter 16 Noise and Vibration [PINS Ref:AS-080]. This requires further elaboration in the report as this approach means that some assessments of effects are potentially not fully understood. As a case in point, it is noted that no significant impacts are predicted to the scheduled Someries Castle (located in Central Bedfordshire). However, ES Chapter 16 Noise and Vibration	It should be noted that the significant effect predicted for the properties near Someries Castle occur during night-time. As explained in Section 10.5 of Chapter 10 Cultural Heritage of the ES [AS-077], specifically paragraphs 10.5.20 to 10.5.29, impacts to heritage assets from noise intrusion is relevant where the asset's noise environment contributes to an understanding and appreciation of their heritage value (paragraph 10.5.6). A quiet noise environment is not part of the setting for Someries Castle and Chapter 10 of the ES acknowledges that quietness is not part of	<p>Noted about night-time effects.</p> <p>The assessment notes that 'quietness' is not part of the setting of Someries Castle. However, historically the surrounding rural landscape and the associated tranquillity of that landscape, has been an important part of the asset's setting. Impacts from Luton Airport have changed that setting. But the Proposed Development has the potential to further change the asset's setting. This is in line with GPA3 on cumulative change: '<i>Where the significance of a heritage asset has been</i></p>



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		[PINS Ref: AS-080] at paragraph 16.9.254 states: "A small number of properties to the south of the airport near Someries Castle and on Dane Street experience adverse likely significant effects due to noise change from both aircraft air noise and ground noise during the night-time."	the asset's setting that contributes to its understanding and that its existing noise environment is dominated by aviation noise (Paragraph 10.9.69). The level of change to Someries Castle's setting, as assessed by the noise change contours, would represent negligible change from the future baseline. This would be perceptible but would not impact the asset's heritage interests or values. As such, it would constitute a very low magnitude of impact.	<i>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 like to see more consideration given to this issue.</i>
8.5	Cultural Heritage	Regarding physical impacts to the historic landscape, the ES Chapter 10 Cultural Heritage [PINS Ref: AS-077] makes no mention of the Hedgerow Regulations 1997. Environmental effects arising from the impact on possible historic hedgerows has not been assessed.	This matter is addressed in the Statement of Common Ground submitted at Deadline 2 [TR02001/APP/8.15] item no. HCC120.	<p>This issue was discussed and agreed in the SoCG.</p> <p>The applicant has previously advised that there are no hedgerows under the Historic Hedgerows that would be impacted by the scheme (while acknowledging that hedgerows which did not fall under this category would be impacted). The Host Authorities agree that the report needs to be amended to state this explicitly and mention should also be made of the Historic Hedgerows Regulations.</p> <p>At the time of writing, the Host Authorities were awaiting updated text from the Applicant.</p>
9.1	Surface Access	Modelling/Forecasts <p>The Core Scenario includes highway improvements which are not committed associated with the M1 9-10 All Lane Running and major improvements to M1 (Junction 10) as this Proposed Development is not in the National Highways' Road Investment Strategy (RIS) programme and All Lane Running / Smart Motorway schemes have been suspended by government due to safety concerns. This will have an impact on congestion levels and wider traffic routing which is not currently reflected in the core assessments. The mitigation response may therefore need to be different to that currently presented. Although a modelling sensitivity test has been undertaken without these improvements, insufficient detail on the results and outcomes of this test across the full area are not provided.</p>	<p>Noted.</p> <p>However, the Rule 9 modelling is being undertaken to respond to the ExA request to consider the Department for Transport Guidance on the treatment of Covid-19 which was published after the modelling for the DCO had been completed. The Rule 9 work should enable the ExA to consider whether the package of mitigation measures set out in the DCO documents continue to mitigate the impacts of the Airport Expansion.</p> <p>As such, the submitted documents and associated mitigation strategy remain the as the main application documents for consideration.</p>	<p>The Host Authorities are awaiting finalisation of the Rule 9 Response Cover Letter [AS-064] which is expected to be completed at the beginning of December (assumed to be Deadline 6). The Host Authorities will then review and respond accordingly.</p>



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9.2	Surface Access	<p>Modelling/Forecasts</p> <p>There is insufficient baseline information incorporating any impacts of the Covid-19 Pandemic. The basis for the traffic forecasts and mode share targets is not based on the post pandemic situation and the Base model is seven years old. Consideration and any agreement to the surface access needs before the outcomes of this work are fully understood are premature.</p>	The Applicant is addressing this as part of its response to the Procedural Decision issued by the Examining Authority on 16 May 2023. Work will be undertaken to understand the how traffic flows have changed since 2016/2017 from available data sources.	The Host Authorities are awaiting finalisation of the Applicant's updated transport modelling as detailed in Appendix A of the Rule 9 Response Cover Letter [AS-064] which is expected to be completed at the beginning of December (assumed to be Deadline 6). The Host Authorities will then review and respond accordingly.
9.3	Surface Access	North Herts Council queries the accuracy of the baseline traffic counts for modelling junctions in Hitchin, and would like to see more transparent analysis and sensitivity testing of the modelled impacts of the forecast >50% increase in vehicle trips generated by the airport expansion.	The CBLTM-LTN transport model has been used to consider the impacts of the proposed development. The CBLTM-LTN transport model has been developed in accordance with best practice and Department for Transport guidance on traffic modelling as reported in the Appendix E to the Transport Assessment [APP-203 to APP206]. This has included data collection as reported in Appendix C to the Transport Assessment [APP-200].	North Herts Council has identified anomalies and inconsistencies in the forecast traffic flows at the junctions in Hitchin featured in the TA, which are obscured by the omission of baseline traffic counts in the evidence supplied in the TA. North Herts Council seeks further detail and explanation of assumptions that underlie the traffic flow forecasting and impacts of the proposed interventions.
9.4	Surface Access	The Transport Assessment and accompanying documents provide minimal detail about how buses will be enhanced to connect to Hertfordshire towns which currently have poor connections to Luton, including Hemel Hempstead, Hatfield and Welwyn Garden City as well as continuing to develop the services that already exist connecting to Hitchin, Letchworth, and Stevenage. Hertfordshire County Council and North Herts Council are concerned that if a broad plan and funding mechanism is not established at this planning stage, there can be no confidence that meaningful improvements will be made to the bus connections to Hertfordshire to support their sustainable airport growth, which could make it difficult for the Proposed Development to achieve their sustainable travel goals and therefore impact negatively on the Hertfordshire highway network. Local bus travel from the nearby Hertfordshire towns would provide a sustainable travel choice for trips from the east and south, and the Councils would like to see that sufficient planning of these services has occurred and that a suitable level of funding is secured to deliver the improvements. The funding mechanism and values are currently unclear for investment in supporting public transport.	Following the submission of the application for development consent, the Applicant has been developing proposals for a Sustainable Transport Fund (STF), to be used to fund measures identified within the Framework Travel Plan [AS-131]. The Applicant will continue to engage with the local authorities as the proposals are developed, including the size of the fund, the parameters for prioritising measures to be funded by the STF and the legal mechanisms for securing the fund. The routes indicated as being a priority by Hertfordshire local authorities will be considered in the round alongside other routes that may need to be provided to improve connectivity to the airport from surrounding areas. The prioritised routes that will be funded by the Sustainable Transport Fund will be agreed through a governance structure that aligns with the processes set out within the Framework Travel Plan [AS131].	<p>The Host Authorities need to review and understand the information supplied in relation to the STF in more detail. The understanding at the moment is that the public transport will be funded through the STF which will be a competitive process for securing funding against other competing demands on the funding. The Host Authorities consider that this process for funding additional and enhanced bus services is not suitable as bus service improvements should be identified and funded from the outset in order to effect behaviour change from the earliest point in the airport's expansion to have the greatest chance of achieving mode share targets.</p> <p>A process needs to be agreed for identifying potential new or enhanced bus services; modelling their potential contribution towards Travel Plan and Green Controlled Growth targets; assessing funding requirements (pump-priming, or longer-term subsidy); performing a cost-benefit analysis to prioritise the most appropriate interventions; and negotiating with incumbent operators or tendering new services.</p>



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9.5	Surface Access	<p>Public Transport</p> <p>North Herts Council is concerned that a below threshold increase in trips by non-sustainable modes along transport corridors well-served by rail, coach and bus will offset an above-threshold increase in trips by non-sustainable modes from the east, which is not served by rail or coach and is mostly poorly served by bus.</p>	<p>The Applicant is supportive of measures to improve sustainable travel modes and will work with local authorities and bus and coach service providers to implement improvements wherever reasonably practicable.</p> <p>The Surface Access Strategy and Framework Travel Plan [AS-131] name Bus and Coach as one of the Priority Areas. There are multiple interventions associated with the priority areas, which comprise the Applicant's surface access toolbox. This longlist is contained in the Framework Travel Plan [AS-131]. The vision and objectives of the SAS have been identified to capture the surface access Limits and Targets that underpin the strategy. The longlist includes '<i>Engage with bus operators to improve the existing routes and create new and extended routes, better connecting the airport to more places (especially East-West) and in particular urban areas and transport hubs</i>'.</p>	<p>As above (Ref: 9.4), the Host Authorities need further assurance that sufficient funding will be made available to support new bus services from an early stage in the development process and for a sufficient duration to effect and maintain behaviour change and mode shift to public transport.</p>
9.6	Surface Access	<p>Public Transport</p> <p>North Herts Council is concerned that the proposals for bus transport are insufficiently ambitious and detailed to achieve sustainable travel targets from origins not served by direct rail connections to Luton Airport. To minimise negative impacts on North Hertfordshire, the public transport strategy should include as an explicit objective mode shifting existing car trips to public transport, not only to Luton airport but other destinations, in particular along the A505, to free up highway capacity for the inevitable growth in vehicular trips generated by the airport expansion (estimated at a 37% increase in airport passenger trips and a 46% increase in airport staff trips by car, based on GCG Level 1 thresholds for travel by Non sustainable modes).</p>	<p>See above response. The Applicant considers it not possible to provide details on the frequency and destinations of additional bus services at this stage, as this information will need to be agreed with bus operators in line with the Proposed Development. This agreement has not yet been made and so further details cannot be provided at this stage.</p>	<p>The Host Authorities are concerned that the bus services and patronage have not been identified as part of the airport growth and trip assessment associated with the transport assessment and planning application. The Applicant should provide certainty that the proposed mode share can be achieved.</p>
9.7	Surface Access	<p>Public Transport</p> <p>There is a heavy reliance on rail for access to the Proposed Development to achieve the target mode share however it is not clear whether there is sufficient capacity to accommodate all of the public transport trips within the proposed networks for rail and bus / coach, the distributional</p>	<p>The future mode split scenarios have been developed by applying a series of assumptions and assessments, as set out in the Public Transport Strategy Summary Report [APP-202] Appendix H to the Transport Assessment. This included a rail capacity assessment and benchmarking against comparable airports.</p>	<p>Appendix H to the Transport Assessment [APP-202] does not provide sufficient clarity and detail on the specific queries that have been raised in the first column (Matters raised in WR):</p> <ul style="list-style-type: none">- More detail is needed on the expected increase in passengers at already busy rail stations in



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		<p>assessment of passenger and employee demand is not clear from the information presented. Hertfordshire have particular concerns about overcrowded trains leaving the airport having a negative impact on existing and future passengers at stations such as St Albans and Harpenden, particularly in the morning peak. 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.</p> <p>It is not clear whether the effect of the Proposed Development has been treated in isolation without a proper understanding of the other demand and growth in rail travel on the Thameslink and EWR network. Trains that are already or forecast to be over capacity as a result of general and/or airport growth need to be identified. The original assessment was based on pre-Covid levels of service with the aspiration to have 24 service per hour through the peak times on GTR services. All rail companies are now under pressure to cut costs, and this has resulted in the rationalisation of some rail services which means the rail capacity envisaged in 2019 is unlikely to be the present-day reality and for the foreseeable future.</p>		<p>Hertfordshire – including St Albans and Harpenden. Specific overcrowded trains / routes should be identified;</p> <ul style="list-style-type: none">- As above there is insufficient detail regarding the bus/coach services that are needed to support the distributional assessment of passenger and employee demand;- The assessment to date has been on pre-covid service levels and uptake, how have potential rail cost-cutting / investment reductions and the potential capacity reduction compared with that envisaged in 2019 been accounted for in the mode share targets and the assessment of the impact on the existing rail capacity.
9.8	Surface Access	<p>Physical Highway Improvement Schemes</p> <p>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 note that these schemes are subject to further, future detailed design development and discussion with the councils prior to implementation (if required) and any scheme taken forwards should take into account the factors described above, or current Hertfordshire County Council</p>	<p>The proposed schemes have been designed with consideration Design Manual for Roads and Bridges, Manual for Streets and relevant local authority standards. Spatial constraints (including vertical dimensions) have been considered as part of the design in order to minimise the area of works.</p> <p>The Applicant would work with the relevant local authorities following approval of the DCO in developing the highway mitigation schemes. The Applicant is supportive of measures to improve active and sustainable travel modes and will work with the relevant local authorities to implement any improvements, such as to meet their requirements for LTP4 wherever reasonably practicable.</p>	<p>The Host Authorities are keen to understand that there will be sufficient funding available for a potentially more extensive scheme that may emerge from further consultations with them post-DCO and would prefer that these discussions are held sooner in the process to identify alternative schemes and ensure sufficient funding is available.</p>



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		<p>policy at that time. Additional details about how the three junction improvement schemes comply with the LTP4 objectives and requirements must be provided at the relevant time, otherwise these schemes are not acceptable based on our current policy.</p>		
9.9	Surface Access	<p>Outline Transport Related Impacts Monitoring and Mitigation Approach</p> <p>The Outline Transport Related Impacts Monitoring and Mitigation Approach (TRIMMA) which is contained at Appendix I of the Transport Assessment (7.02) is very light on detail of the approach and locations that will be monitored, instead setting out a broad commitment to agreeing what, where and how the impacts are monitored at a later date. With the exception of three junctions located in Hitchin which are listed in the bulleted list after paragraph 2.3.3 of the Outline TRIMMA, no other junctions or roads with Hertfordshire are mentioned. It is noted that paragraph 2.3.3 also indicates that the Full TRIMMA is not expected to "materially expand the scope" of the list at paragraph 2.3.3.</p> <p>Hertfordshire County Council is concerned that the Outline TRIMMA does not sufficiently protect Hertfordshire, as the main east-west and north south routes from Hertfordshire to the airport are not included in paragraph 3.3, nor are the routes through the North Herts Villages to the east of the airport where the applicant believes that future traffic calming may be required.</p> <p>Overall, Hertfordshire County Council believes that the Outline TRIMMA should include more detail about the locations where monitoring will take place, what the monitoring will entail, how often the monitoring will take place and be reported back and details of what happens when the monitoring shows significant difference to the expectations of the Transport Assessment. At present the TRIMMA is not considered sufficiently binding on the applicant to allow Hertfordshire County Council certainty that unforeseen impacts in Hertfordshire will be addressed.</p> <p>In order for the TRIMMA monitoring to provide a reliable indication of changes in vehicular traffic associated with the airport, it needs to include regular or continuous tracking of</p>	<p>The OTRIMMA was intended to provide an indication as to the potential scope and function of the TRIMMA, the content of which will be shaped through engagement with Host Authorities.</p> <p>The TRIMMA will be a means of identifying when proposed mitigation should be delivered; it will also be a mechanism of agreeing on the final form of this mitigation, and of supporting the delivery of other mitigation.</p> <p>The TRIMMA will contain the information described: <i>detail about the locations where monitoring will take place, what the monitoring will entail, how often the monitoring will take place and be reported back and details of what happens when the monitoring shows significant difference to the expectations of the Transport Assessment.</i></p>	<p>A meeting has been held on 19th September 2023 for the Applicant to share further details of the emerging TRIMMA. The Host Authorities will be reviewing the presentation slides and notes shared by the Applicant on 21/09/23 which will be submitted formally in due course. (23-09-19 DCO T&P – STF_TRIMMA engagement – Has.pdf) and providing further feedback as part of the process in due course, However the initial comments and concerns are as follows:</p> <ol style="list-style-type: none"> 1) Concern that the works away from the airport will need to be delivered by the Host Authorities, degree of cost certainty and cost risk will be important for the Host Authorities to have a greater understanding of; 2) There are some large infrastructure schemes proposed which could absorb a high proportion of the pot of funds available through the TRIMMA; 3) Stopping the monitoring at 31.5mppa is insufficient there will still be an impact that needs monitoring for a defined period (usually minimum 5 year for typical development applications) beyond the completion of the expansion; 4) Funding for attendance at the ATF which will now have a very different terms of reference and higher expectations for attendance and involvement from the parties that are signed up to it, particularly with regards the monitoring and review of schemes put forward; 5) Monitoring of the airport car parks alone will miss growth in traffic to/from off-site car parks, which may have a significant negative impact on the highway network in Luton and adjoining authorities; 6) The frequency and duration of traffic monitoring will need to be robust enough to pick out trends from the background noise (normal variability) in traffic levels; and



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		vehicles between the airport and agreed locations in North Hertfordshire using linked ANPR cameras.		<p>7) The currently proposed locations for ANPR cameras will not identify or quantify traffic passing through villages around Luton, as it will only capture that traffic once it is close to the airport (and mixed with local traffic). For reference, TA paragraph 15.2.1 states, "Work with the local highway authorities to monitor and consider the need for traffic management measures to address airport related impacts in residential or rural areas including Great Offley, Tea Green, Breachwood Green and Whitwell." (N.B. the list of villages cited as potentially being impacted is not comprehensive.)</p>
9.10	Surface Access	<p>Framework Travel Plan</p> <p>There is no quantitative or geographical analysis of the impacts of the interventions proposed in the Framework Travel Plan (FTP). It is therefore not possible to evaluate how plausible the plan is.</p>	<p>Whilst the Applicant's plans for the Proposed Development and assessment of its impacts have been developed on the basis of forecasting, in line with relevant guidance and using the best available data, it is inevitable that the future will bring changes which cannot currently be foreseen with certainty.</p> <p>The Covid-19 pandemic and its effects on air travel demand and transport mode choice is a clear, recent example. In this context, it is vital to be prepared with a variety of responses which are adaptable and can be used to enable the airport to remain within the GCG Limits and achieve the Applicant's surface access Targets in the context of an inherently uncertain future.</p> <p>The Framework Travel Plan sets out the monitoring approach to be taken, with a toolbox consisting of interventions and measures that the operator can draw upon and scale up or down as and when required. The toolbox would be deployed flexibly to respond to changing circumstances and the results of ongoing monitoring and stakeholder feedback and achieve Limits and Targets.</p> <p>The legally-binding GCG Framework contains a series of clearly specified 'Limits' for the environmental effects of the expanding, expanded, and lifetime operation of the airport, including Limits for surface access. By enshrining these Limits within the DCO, the GCG Framework ensures that the actual effects of the Proposed Development, as they manifest over time,</p>	<p>The Host Authorities still consider that given there is no quantitative or geographical analysis of the impacts of the interventions proposed in the FTP that it is not possible to evaluate how plausible the plan is.</p> <p>The GCG Framework does not include any geographical analysis of trip origins or routes, only main modes of travel. It is unclear how detailed and accurate the FTP monitoring will be in recording geographical origins and travel routes for car trips.</p>



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			are monitored and timely measures are taken to ensure that those Limits are not exceeded.	
9.11	Surface Access	<p>North Herts Villages Traffic Calming</p> <p>The Transport Assessment identifies a future need for traffic calming in several villages (Great Offley, Tea Green, Breachwood Green, Whitwell) to the east of the Proposed Development, but does not provide details of the type or magnitude of the proposals. The Councils believe that if the current modelling is predicting a problem that needs mitigation in these villages, more details about the location and type of traffic calming should be provided at the planning stage, before any problems exist, and to allow local residents to have meaningful consultation on what is being proposed. The need for and location of these potential measures needs to be managed at the appropriate stage.</p> <p>The traffic monitoring (TRIMMA) does not include monitoring at the villages in North Hertfordshire where the Applicant proposes traffic calming and the method of data collection is not clear, this means there could be undetected traffic increases at these locations as the airport grows.</p>	The Applicant has identified the locations of the indicative traffic calming to help dissuade airport-related traffic from reaching villages in the first instance, however the Applicant is willing to work with local authorities in delivering highway mitigation and local traffic calming schemes where appropriate.	North Herts would like to see a commitment from the Applicant to monitoring the village locations that can reasonably be expected to be impacted by the airport expansion, and preparing concept plans for potential mitigations. North Herts accepts that the details of schemes may need to follow at a later stage but is seeking assurance now that sufficient funding will be available to deliver mitigations that are effective, meet North Herts and Hertfordshire policy requirements, and are acceptable to the local communities. Note that potential mitigations should not be confined to infrastructure: measures that free up road capacity by mode-shifting trips, including not related to the airport, to active travel, bus or car-sharing, are likely to be more acceptable than measures, such as traffic calming, that may not reduce traffic volumes and may simply displace traffic to another village.
9.12	Surface Access	<p>A505/Pirton Road Highway Improvement</p> <p>North Herts Council is concerned that the proposed highway improvement at Pirton Road / A505 is shown to significantly increase queueing and delay to traffic on Pirton Road to provide benefit to traffic on the A505. North Herts Council is concerned that the turning counts in the Saturn model (which have been used at this junction) are not calibrated and that the model does not include the fourth arm (Wratten Road) at all, indicating that the analysis is based on unrealistic forecast traffic flows. A proper assessment at this junction using traffic counts could lead to a different (possibly larger) scheme being required. For example, if the traffic from Wratten Road West is more than currently modelled it is likely that the issues predicted on Pirton Road may be worsened.</p>	The Applicant notes that in the AM peak, the Proposed Development results in an increase in queueing of 69 Passenger Car Units (PCUs) on Pirton Road but there is a 181 PCU reduction in queueing on Offley Road, and a significant reduction in the overall junction delay. In terms of the comparison between the with and without development junction operation, changes to the Wratten Road West traffic flows which are likely to be relatively low are unlikely to change the conclusions. Whilst a count of the peak hour traffic on Wratten Road could be collected, if necessary, it is worth noting that the junction in question is spatially constrained by properties on all sides, which limits opportunities for improvements and the scope to amend the proposed mitigation.	North Herts and Hertfordshire County Council maintains concerns about this Proposed Development and would expect that the junction is sufficiently modelled including all approaches to demonstrate that the mitigation satisfactorily addresses the additional traffic congestion issues that arise as a result of the Proposed Development. The final scheme would need to be agreed with the Host Authorities as further detail emerges including any further data collection and modelling of the junction.



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9.13	Surface Access	Surface Access Funding Throughout the process, the Councils have asked the Applicant to clarify whether it intends to bring forward funding proposals to deliver transport related projects and schemes, in much the same way as has happened at London Stansted Airport. The recent consent for London Stansted to grow to 43mppa contains s106 agreement commitments to the provision of operation of a Sustainable Transport Levy, a Local Bus Network Development Fund (£1,000,000), and a Local Roads Network Fund (£1,000,000), for example. No transport related obligations, other than for the specific off-site highways works, are proposed in the current application at Luton.	Following the submission of the application for development consent, the Applicant has been developing proposals for a Sustainable Transport Fund (STF), to be used to fund measures identified within the Framework Travel Plan [AS-131] . The Applicant will continue to engage with the local authorities as the proposals are developed, including the size of the fund, the parameters for prioritising measures to be funded by the STF and the legal mechanisms for securing the fund.	The Host Authorities need to review and understand the information supplied in relation to the STF in more detail. The understanding at the moment is that the public transport will be funded through the STF which will be a competitive process for securing funding against other competing demands on the funding. The Host Authorities consider that this process for funding additional bus services is not sufficient and that they should be identified and funded from the outset in order to effect behaviour change and support the airport growth and mode share targets. There will be some pump-priming of bus services that will be needed as it is unlikely they will be a commercial entity from the outset. The Host Authorities welcome further confirmation.
9.14	Surface Access	The following is included within the Surface Access Strategy [PINS Ref: APP-228]: However, this is vague in terms of the value and scope of the projects that could be funded through the Councils, this should be translated into a more formal commitment and arrangement for funding necessary transport schemes to support the airport growth.	Noted. Following the submission of the application for development consent, the Applicant has been developing proposals for a Sustainable Transport Fund (STF), to be used to fund measures identified within the Framework Travel Plan [AS-131] . The Applicant will continue to engage with the local authorities as the proposals are developed, including the size of the fund, the parameters for prioritising measures to be funded by the STF and the legal mechanisms for securing the fund.	The Host Authorities need to review and understand the information supplied in relation to the STF in more detail. The understanding at the moment is that the public transport will be funded through the STF which will be a competitive process for securing funding against other competing demands on the funding. The Host Authorities consider that this process for funding additional bus services is not sufficient and that they should be identified and funded from the outset in order to effect behaviour change and support the airport growth and mode share targets. There will be some pump-priming of bus services that will be needed as it is unlikely they will be a commercial entity from the outset. The Host Authorities welcome further confirmation.
10.1	Construction Management	Construction Traffic Parking While the Councils understands that the Construction Traffic Management Plan (CTMP) requirement for the precise details of construction traffic management to be decided by the future contractor, the Councils are concerned that there is not a current commitment to ensuring that deliveries associated with the Proposed Development's construction and future operation to not fill (or overwhelm) existing lorry parking facilities in the local area. Such a commitment would provide parameters for the future contractor to consider and	The outline Construction Traffic Management Plan (CTMP) (Appendix 18.3 of the ES [APP130]) contains provision for the establishment of a traffic management working group (TMWG) that will a forum for stakeholders' engagement prior to commencement of the Proposed Development. The forum will include the lead contractor, local authority highways authorities and National Highways. The TMWG would be responsible for monitoring the execution of the CTMP. The TMWG will also consider the cumulative impact from construction traffic. The Proposed Development will	The Host Authorities would welcome further details on the CTMP and the controls that would be put in place as they emerge as part of the development proposals.



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		would ensure that deliveries of essential goods to other locations in Luton and the surrounding area were still able to take place.	control all site deliveries through an electronic delivery management system (DMS) that will manage and control deliveries to site. The system will be managed by the logistics contractor. The lead control will set out in detail the delivery procedures in the CTMP.	
11.2	Landscape and Visual	The Campaign to Protect Rural England (CPRE) tranquillity mapping is only used to describe tranquillity levels for the area immediately surrounding the Proposed Development. The baseline tranquillity levels for the AONB are not described so it is not clear how the basis for the tranquillity assessment has been determined.	Paragraphs 14.7.42 to 14.7.46 of Chapter 14 of the Environmental Statement [AS-079] described the aesthetic and perceptual qualities and levels of tranquillity in the study area and how they are considered in the assessment. Further detail is provided in Appendix 14.1 LVIA Methodology of the ES (section 5.2) [AS-036].	Paragraph 14.7.46 of the ES states, “levels throughout the Study Area generally increase with distance from the airport and rise further within the more rural parts of the Chilterns AONB.” However, this does not provide the level of detail required as the basis for determining how tranquillity and other perceptual qualities will be affected. It is understood that further assessment work is being carried out in relation to the Special Qualities of the Chilterns AONB. It is anticipated that this assessment will include more detail on baseline perceptual qualities. Further input will be provided on review of the Chilterns AONB Special Qualities Assessment.
11.4	Landscape and Visual	ES Chapter 14 Landscape and Visual [PINS Ref: AS-079] states that the Proposed Development would “permanently deteriorate the sense of tranquillity perceived by those recreating within the AONB”. However, it is not stated what the geographical extent of influence would be across the AONB. Clarification is therefore sought from the Applicant as to the distance from the aircraft flightpaths they consider would result in a deterioration in tranquillity. It should also be recognised that a range of receptors will be affected not just recreational factors as stated in ES Chapter 14 Landscape and Visual [PINS Ref: AS-079].	The Applicant is preparing an Assessment of the effects of the Proposed Development on the Special Qualities of the AONB. This Assessment will consider, amongst other things, effects of the Proposed Development on the ‘relative tranquillity’ of the AONB. The scope of ES Chapter 14 Landscape and Visual [AS-079] , including visual receptors, was discussed and agreed with the Host Authorities Technical Working Group (TWG) during the pre-application stage. Consideration of additional visual receptors not necessary to understand the potential effects of the Proposed Development.	The Applicant’s intention to provide an Assessment of the effects of the Proposed Development on the Special Qualities of the AONB is noted. It is anticipated that additional aircraft movements, introduction of large scale-built development and associated lighting will be perceived by visual receptors in the AONB. These matters should be either addressed in the LVIA [AS-079], or justification provided for being scoped out.
11.5	Landscape and Visual	Lighting and dark night skies. The lighting assessment does not specifically address night-time effects on the AONB. ES Chapter 14 Landscape and Visual [PINS Ref: AS-079] should consider the introduction of new light sources in skyline views which may be directly visible and not just assimilated into the general perception of ‘skyglow’ as stated in ES Chapter 14 Landscape and Visual [PINS Ref: AS-079].	The scope of ES Chapter 14 Landscape and Visual [AS-079] , including the scope of assessing night-time views/effects, was discussed and agreed with the Host Authorities Technical Working Group (TWG) during the pre-application stage. Consideration of potential new light sources in skyline views from the AONB are not necessary to understand the potential effects of the Proposed Development.	Relatively dark skies are a characteristic of the AONB referenced in the Chilterns AONB Management Plan 2019–2024. Effects in relation to lighting and dark skies within the AONB should be assessed as part of the Assessment of the effects of the Proposed Development on the Special Qualities of the AONB. The comment in relation to the introduction of new light sources in skyline views did not relate exclusively to the



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				AONB. It also applies to closer range views particularly where large-scale development is introduced in elevated situations where the characteristics of the view are predominantly rural. Effects in relation to lighting should be assessed as part of the Assessment of the effects of the Proposed Development, particularly where there are predominantly rural characteristics in a view. In addition, the AONB Board does not appear to have been consistently part of the TWG and therefore the AONB Board should be specifically consulted on the requirement for assessing effects of the Proposed Development on dark night skies and the AONBs Special Qualities.
12.5	Noise and Vibration	The impacts identified within the LIR are predicated on the core case within the Applicant's noise assessment. Impacts that would arise from the 'faster growth' sensitivity case are set out in Table 16.74 within ES Chapter 16: Noise and Vibration [PINS Ref: AS-080] and impact a greater number of people with increased noise levels. Future noise contour limits within the Applicant's noise assessment have been set using the faster growth case within the Applicant's noise assessment. This is contrary to UK aviation noise policy as use of the faster growth case to set limits neither limits, nor reduces where possible the number of people in the UK significantly affected by aircraft noise (see paragraph. 17 of the Aviation Policy Framework). As is required by UK aviation noise policy, benefits are arising from future technological improvements are to be shared between operators and communities. The Applicant has committed to this. However, the Applicant has not committed to equal sharing, and is basing all sharing off of benefits on the 2019 Actual baseline. Benefit sharing is not an exercise that involves comparing future noise levels against the current baseline or some other historic baseline. When assessing the benefits to be shared in a hypothetical future year, it is necessary to consider the contours generated by the developed scheme (with development) as compared to the future baseline (without development). An equal sharing arises when control and mitigation measures are in place that ensure that community noise levels are minimised compared to those that might otherwise arise. It is not sufficient to simply argue that future noise levels will be lower than those that occurred in 2019 (irrespective of the	<p>The applicant considers that the Proposed Development is fully compliant with UK aviation noise policy and emerging policy, as set out in Chapter 16 Noise and Vibration of the Environmental Statement [REP1- 003], the Planning Statement [AS-122] and Commentary on the Overarching Aviation Noise Policy Statement (OANPS) [REP1-012]. This includes compliance with the Government's OANPS (Ref 1) that "The impact of aviation noise must be mitigated as much as is practicable and realistic to do so, limiting, and where possible reducing, the total adverse impacts on health and quality of life from aviation noise."</p> <p>The Policy Paper accompanying the statement highlights that the economic and consumer benefits may counterbalance any increase in the adverse effects of noise, stating that: "an overall reduction in total adverse effects is desirable, but in the context of sustainable growth an increase in total adverse effects may be offset by an increase in economic and consumer benefits."</p> <p>Policy does not specify that sharing the benefit of future aircraft technology must result in an equal share.</p> <p>It is not correct that the Applicant has based sharing the benefits on the 2019 Actuals baseline. The quantification of sharing the benefits presented in Section 3 of Appendix 16.2 of the Environmental</p>	<p>The Applicant has directly commented on how use of the faster growth case over the core case is not a clear scenario where total adverse impacts on health and quality of life from noise can be both limited and reduced.</p> <p>The core case is what is sought by the Applicant, rather than a sensitivity test (otherwise the faster growth sensitivity test becomes the core case). Therefore, noise contour limits must be set using core case values.</p> <p>The Host Authorities note that the night-time core case is artificially already inflated by 5% beyond what is being sought [REP2-032], further weighting benefits in favour of Luton Airport.</p> <p>The OANPS quote provided is of a sentence within a paragraph. The full paragraph is: "<i>We consider that "limit, and where possible reduce" remains appropriate wording. An overall reduction in total adverse effects is desirable, but in the context of sustainable growth an increase in total adverse effects may be offset by an increase in economic and consumer benefits. In circumstances where there is an increase in total adverse effects, "limit" would mean to mitigate and minimise adverse effects, in line with the Noise Policy Statement for England.</i>"</p> <p>The OANPS therefore allows for noise and economic benefits to be counter-balanced, but that limiting,</p>



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		fact that the 2019 baseline did not comply with its planning constraints).	<p>Statement [APP-211] is with reference to the 2019 Consented baseline, not the 2019 Actuals baseline.</p> <p>It is also not correct that sharing the benefit has been assessed only on future noise levels being lower than occurred in 2019. The quantification of sharing the benefits has been based on a comparison of the Noise Envelope Limits (which have been set based on contours with development) and the future baseline (without development). This is demonstrated in Insets 3.1 to 3.4 of Appendix 16.2 of the Environmental Statement [APP-211]. This approach has been followed with reference to guidance from the Civil Aviation Authority on Noise Envelopes (Ref 2) as set out in the appendix.</p>	<p>mitigating and minimising are all still required. The Noise assessment must happen first, before considering the overall planning balance. It is entirely feasible for noise levels arising from the Proposed Development to be minimised by moving noise contour limits from the faster growth case to the core case.</p> <p>The Host Authorities accept the point raised by the Applicant that they have based sharing of benefits using 2019 Consented baseline rather than the 2019 Actuals, but again note that no benefits are proposed to be shared in the night-time and scant sharing is proposed in the daytime.</p> <p>The Applicant needs to revise their assessment to comply with UK aviation noise policy, by basing future contour area limits from the core assessment case and by committing to an equal share of noise reduction benefits between the local community and the airport, based on a compliant baseline.</p>
12.6	Noise and Vibration	The Applicant has used both the Do Something vs Do Minimum and Do Something vs 2019 Actual Baseline comparisons to determine significant effects. As set out in the paragraph above, the mitigation specified as a result of these comparisons (through GCG) does not lead to benefit sharing. The assessment of significant effects is based off the comparison of Do Something vs Do Minimum in all assessment years.	<p>See response above with respect to benefit sharing.</p> <p>It is correct that the core assessment of EIA likely significant effects uses the comparison of Do Something vs Do Minimum in all assessment years. This response appears to contradict the statement in the Local Impact Report [REP1A-003] (paragraph 7.5.45) which suggests that the comparison with the Do-Minimum has only been presented as a sensitivity test.</p>	<p>See response above (12.5) with respect to benefit sharing.</p> <p>The sensitivity test quoted in the LIR is made with reference to 2019 Actuals having been used, rather than 2019 Consented. The latter, taken by the Host Authorities to be the correct comparison, has been relegated to a sensitivity test only.</p>
12.7	Noise and Vibration	The use of the 2019 Actual baseline to demonstrate noise reduction is also not accepted as London Luton Airport did not comply with its day or nighttime noise contour constraints as set by the extant planning conditions. This has resulted in incorrect comparisons taking precedence within the Applicant's noise assessment. The Councils have requested the reasoning for this be clearly set out, including in Statutory Consultation responses and within the Noise Envelope Design Group meetings. This information is not contained within the ES [PINS Ref: AS080] Noise and Vibration, nor associated appendices. The Councils have	<p>As set out in Chapter 16 of the Environmental Statement [REP1-003], the 'current baseline' is considered to be the actual noise levels in 2019, in line with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (which refers to the baseline scenario as "a description of the relevant aspects of the current state of the environment" in Schedule 4, paragraph 3).</p> <p>However, a sensitivity test using a '2019 Consented' baseline (derived for this purpose by adjusting the fleet</p>	<p>The Applicant is seeking to ignore the noise condition breaches that occurred in 2019. The EIA Regulations do not state definitively what "current state of the environment" means, nor expand on this limited definition any further.</p> <p>The Applicant's use of 2019 actual noise conditions to provide certainty on the minimising of future noise is flawed.</p>



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		yet to see any valid reasoning for use of a non-compliant baseline. The Councils should be provided with an updated assessment with a valid baseline, coupled with an analysis that shows genuine benefit sharing.	<p>mix that occurred in 2019 to reach a modelled noise impact that would sit within the existing 2019 short term Limits) is summarised in Chapter 16 Noise and Vibration of the ES [REP1- 003].</p> <p>An assessment against both the 2019 Actuals and 2019 Consented baseline has therefore already been undertaken and provided. The conclusions of residual significant effects remain the same for both assessments, as significant effects would be avoided through the provision of the full cost of noise insulation.</p> <p>See response above with respect to benefit sharing.</p>	<p>While the assessments of residual significant effects may remain unchanged if either is used, the inclusion of 2019 Actuals on graphs purporting to show noise reduction over time leads to bias and suggests a level of reduction that should not legitimately be claimed by the Applicant.</p> <p>See response above (12.5) with respect to benefit sharing.</p>
12.10	Noise and Vibration	The Councils seek to ensure that this scheme is as accessible as possible to those who qualify for it and would welcome details of a communication and engagement strategy on the subject from the Applicant.	The Draft Compensation Policies, Measures and Community First [TRP02001/APP/7.10] has been updated to include further information on the proactive approach that will be adopted by the Applicant to ensure both knowledge and availability of the offer has been clearly and openly communicated.	The Host Authorities welcome these updates.
13.1	Water Resource and Flood Risk	The Applicant proposes to discharge treated wastewater to ground via an infiltration basin located to the east of the Main Application site. Whilst Hertfordshire County Council accept the proposals in principle, insufficient information has been provided to assure the Council of the viability of this method of discharge. The location of the proposed drainage feature (infiltration basin) raises a potential concern with regards to its feasibility, especially given the presence of the Netherfield Spring a short distance away from the proposed drainage feature. The presence of the spring indicates a potentially shallow water table in the area. A shallow water table is generally not desirable when considering ideal conditions for a soakaway drainage feature as (1) it would limit the rate inf inflow due to lack of hydraulic gradient and (2) the EA generally do not accept direct discharges to the saturated part of the aquifer. Given the chalk principal aquifer which is present there is also likely to be significant seasonal variability in the water table which also might affect the feasibility of the drainage system (particularly during winter months when the water table would be expected to be higher).	The Hydrogeological Characterisation Report (Appendix 20.3 of the ES [APP136]) has been undertaken to identify the likely groundwater table across the study area for a range of hydrological conditions. This assessment included information from the local EA groundwater model and monitoring network, together with site specific groundwater monitoring. The assessment concluded that the Netherfield Spring site is unlikely to be fed by groundwater from the Chalk, with the groundwater table several metres below ground level at this location. The Drainage Design Statement (Appendix 20.4 of the ES [APP-137]) includes Design Principle DDS.017 which notes 'The detailed design will provide at least 1m clearance between the highest water table and the underside of buried tanks and other underground structures. The drainage design is to consider the impacts of groundwater mounding, to ensure that the infiltration tanks do not result in groundwater flooding downstream.'	The Host Authorities accept that the detailed design of drainage systems will be secured by Requirement 13 in Schedule 2 of the Draft DCO [AS-067] to include consultation and agreement with the relevant authorities. It is also understood that the Applicant is in discussion with Thames Water regarding the discharge of foul water and polluted surface water to the public sewerage system should infiltration to ground prove unfeasible during detailed design. It is therefore considered reasonable that the design can be appropriately managed as part of the DCO requirements.



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		<p>The council request that further detail is provided to demonstrate the following aspects: 1) The depth to the groundwater table. If not already undertaken it would be recommended to undertake a high-level feasibility assessment to determine the suitability of the local geological and hydrogeological conditions for the soakaway drainage feature. Depending on the outcome of the initial high-level study more detailed assessment, including some ground investigation e.g. a borehole at the location of the proposed drainage feature, which targets the preferred drainage layer, along with groundwater monitoring to determine seasonal variation in groundwater levels; and 2) Site specific infiltration testing at the location of the proposed infiltration basin, clarification of expected peak and daily inflow rates to the infiltration basin, and calculation of the required size of the infiltration basin based on the above information, taking into account an appropriate factor of safety, to inform the detailed design of the drainage system.</p>	<p>The Drainage Design Principles are secured by Requirement 13 in Schedule 2 of the Draft DCO [AS-067].</p>	
13.2	Water Resource and Flood Risk	<p>The review of the submitted Drainage Design Statement Appendix 20.4 Drainage Design Statement of the ES [PINS Ref: APP-137] has identified that the Applicant has not provided any designs for off-site junction improvements and has only provided a high-level summary of drainage mitigation required at each junction.</p>	<p>The Off-site Highway Interventions generally consist of widening and converting existing at-grade roundabouts to signalised junctions, together with minor scale works including realignment of kerb lines and local widening. Drainage designs for the off-site highway interventions have not been developed at this stage but will need to be undertaken in line with the Drainage Design Principles within the Drainage Design Statement (Appendix 20.4 of the ES [APP-137]). These principles are secured by Requirement 13 in Schedule 2 of the Draft DCO [AS-067], which also requires the drainage plans to be agreed in writing by the host authorities.</p>	<p>The Host Authorities accept that the detailed design of drainage systems will be secured by Requirement 13 in Schedule 2 of the Draft DCO [AS-067] to include consultation and agreement with the relevant authorities. It is therefore considered reasonable that the design can be appropriately managed as part of the DCO requirements.</p>
14.3	Economics and Employment	<p>The assessment presents the construction and operational effects of the scheme, many of which are significant and beneficial, particularly with regard to employment generation. The Councils are in broad agreement with the assessment findings; however, it is important that a clear plan for managing those minor adverse impacts identified, particularly during the construction process, is agreed. This is set out in further detail in the LIR produced by the Councils.</p>	<p>Section 11.8 of Chapter 11 of the ES [APP-037] details the embedded and good practice mitigation measures for Economics and Employment. The Code of Construction Practice in Appendix 4.2 of the ES [APP-049] seeks to minimise disruption to ongoing airport operations during the construction phase and therefore minimise effects on airport or other employment. The design of the Proposed Development has also been configured to minimise disruption to existing local businesses. An Employment and Training</p>	<p>Noted. The Host Authorities consider that the Applicant still needs to produce a clear plan for how minor adverse impacts will be identified and managed.</p>



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			Strategy [APP-215] has been developed to ensure that as many jobs and economic opportunities generated by the Proposed Development as possible go to those in the local area. The Strategy sets out how the Applicant and its strategic partners can maximise employment benefits of the expansion through collaborative and good practice approaches to employment and training support.	
14.4	Economics and Employment	The assessment of employment effects associated with the Proposed Development are informed by the study 'The Economic Impact of London Luton Airport' undertaken by Oxford Economics in 2022, based on demand forecasts provided to by York Aviation. The Councils acknowledge that whilst economic forecasting for a proposal of this nature is difficult to predict, the overall outcome would be beneficial from an economic perspective. The Councils (with the assistance of specialist technical consultancy advice) are in on-going technical discussions with the Applicant in relation to the methodology and conclusions of the economic assessment and on matters relating to passenger forecasting to inform the remainder of the Examination process.	The Applicant is awaiting discussions with the appointed specialist consultant.	Discussions underway.
15.1	Employment and Training	It is noted that there is the potential for displacement of businesses and associated jobs during construction, however that construction and operational employment generation as a result of the expansion of London Luton Airport has the potential to be significant and beneficial overall. The Councils would like to maximise the benefits of employment and mitigate for any losses or displacement. They welcome the creation of an Employment and Training Strategy for the construction and operational phases and that the implementation of this will be secured through Section 106 obligation(s).	Noted. The effects of displacement has been considered within Chapter 11 of the Environmental Statement [APP-037]. The Employment Training Strategy [APP-215] requires a Local Economic Development Working Group (LEDWG) to be established with a focus on sharing skills and employment strategy information between the airport and local stakeholders for planning and coordination during both construction and operations. This forum can provide the coordination to help minimise displacement and maximise the benefits of employment across the study area.	The Host Authorities are supportive of establishing a LEDWG and will look to liaise with the Applicant and relevant stakeholders to establish this.
16.1	Health and Community	The Councils are concerned about the absence of mitigation to address the significant effects anticipated on mental wellbeing for residents once the Proposed Development is operational. While mitigation is proposed in the Code of Construction Practice (CoCP) (PINS Ref: APP-049) in the	This matter is addressed in the Applicant's Comments on LIRs to be submitted at Deadline 2a. Community First is not intended to offer mitigation for effects of the Proposed Development, it is the	The Host Authorities note the correction included in the Errata Report [REP1-015] where a significant effect that had been identified during the operational phase of the Proposed Development was removed. While effects on mental wellbeing are not identified as significant, the



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		<p>form of a community engagement strategy to address mental wellbeing effects during the construction phase, no further mitigation is proposed for the operational phase of the Proposed Development.</p> <p>The Councils believe that there may be opportunities brought about by the Community First Fund which could support the mitigation of impacts on mental wellbeing. Currently community groups who support local residents with mental health issues are offered community grants by the Councils. As stated above, the Councils would like to see the Applicant give consideration to broadening the scope of eligibility for access to Community First and that might include support for mental health and wellbeing.</p>	Applicant's commitment to providing further support to local the communities.	<p>Host Authorities feel it would be beneficial to outline an approach to community engagement for the Proposed Development once it is operational. Local residents should be provided a clear process by which they can raise concerns with the Applicant through all stages, particularly as there are likely to be effects, such a noise, which arise during the operational phase.</p> <p>The Host Authorities note that Community First is not proposed as a method for Mitigation, but request the Applicant consider including mental health and wellbeing support as an aspect that the fund could support.</p>
17.1	ULIMS	Given the long timeframe of the proposal the Councils have requested throughout the process clarity on how the Applicant is proposing to deal with managing unidentified local impacts. In the proposals being put forward at Heathrow for its third runway, the Applicant was proposing, as part of its Environmentally Managed Growth proposals (upon which the Applicant's proposed GCG mechanisms is largely based) the preparation and implementation of a ULIMS. The below provides a summary of the scope of this for Heathrow and the Councils would welcome further discussion on this.	The Applicant considers that the issue raised regarding managing unidentified local impacts was answered within the Applicant's Response to Relevant Representations Part 2A (REP1-021) page 46, in response to RR-558, RR-1119 and RR-0297.	Noted, but not accepted. Await Applicant's further work in relation to financing and new funding mechanisms – for example in relation to the Sustainable Transport Fund.
17.3	ULIMS	The Councils have not received any satisfactory response from the Applicant as to why a similar approach to unforeseen impacts is considered not to be appropriate at London Luton Airport, nor, in its absence, how it proposes to identify, manage, and fund potential solutions to such impacts. The Councils do understand that the Applicant has brought forward its TRIMMA proposals in relation to the highway network, but this contains no funding mechanism and apart from TRIMMA there are no proposals to address issues that might arise but are currently unaccounted for.	This matter is addressed in the Statement of Common Ground submitted at Deadline 2 [TR020001/APP/8.15] item no HCC12.	Noted, but not accepted. Await applicant's further work in relation to financing and new funding mechanisms – for example in relation to the Sustainable Transport Fund.
18.3	GCG	The GCG Framework, which will be secured through the DCO, includes early warning Thresholds, and Limits that are not to be exceeded, based on the following environmental effects: a) Aircraft noise – by the total area of land	The Applicant considers that the issue raised regarding timescales for implementation of mitigation was answered within the Applicant's Response to Relevant Representations Part 2a [REP1-021] page	Noted. Further discussions on this matter are required by the Host Authorities.



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		<p>experiencing noise above a certain threshold; (b) Air quality – by the concentrations in the air of the pollutants most relevant to human health; (c) GHG emissions – by emissions from airport operations and surface access; and (d) Surface access – by percentage of passengers and staff travelling by unsustainable modes of transport.</p> <p>The need for controls for environmental impacts is imperative for the Councils, and whilst the approach to Thresholds and Limits is welcomed, the Councils do not consider that that approach taken is sufficiently comprehensive or robust.</p> <p>As a consequence, 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.</p>	30-32, in response to RR-0558, RR-1119 and RR-0297.	
18.4	GCG	<p>It will be important to minimise the time lag between publication of monitoring results and preparation and implementation of a Plan, to avoid any escalation from a Threshold Level 2 exceedance up to and beyond a breach, which would then require a Mitigation Plan be produced. The risk is that the Threshold Level 2 Plans are running behind the exceedance of Thresholds by more than a year and the exceedance will continue to the Limits, such that the situation will already be worse by the point a Plan is agreed or implemented.</p>	<p>The Applicant considers that the issue raised regarding timescales for implementation of mitigation was answered within the Applicant's Response to Relevant Representations Part 2a [REP1-021] page 30-32, in response to RR-0558, RR-1119 and RR-0297.</p>	<p>Noted. Further discussions on this matter are required by the Host Authorities.</p>
18.7	GCG	<p>Furthermore, in the event that the Airport Operator appeals an ESG decision, then the ESG decision and any Local Rule should stand on an interim basis until the Appeal decision is received. This is to avoid an absence of mitigation actions being implemented after, for example, a Limit has been breached, and it is critical that immediate action is taken to arrest and reverse the breach and awaiting an Appeal decision before taking any actions could lead to at least a continuation, and potentially a serious worsening of the breach, in that intervening period.</p>	<p>It is agreed that the original decision of the ESG should stand whilst an appeal to the Secretary of State has been made. Whilst this was always intended to be the case in the drafting of the requirements relating to Green Controlled Growth in Part 3 of Schedule 2 of the Draft Development Consent Order [AS-067], this will be clarified in a future update to the draft Order.</p>	<p>Noted. Further discussions on this matter are required by the Host Authorities.</p>



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19.1	Draft DCO	<p>The Councils have reviewed the various versions of the draft DCO submitted by the Applicant, including the most recent version accepted at the discretion of the Examining Authority (version 2, [PINS Ref: AS-067]). Any references to the draft DCO in this document are to [PINS Ref: AS067]. In addition, no engagement on the draft DCO has taken place since the Application was submitted. Given the critical importance of the draft DCO as the primary consenting instrument of the Proposed Development, the Councils have reviewed, with their legal advisors, the draft DCO. 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 draft DCO as soon as possible, with a view to them being provided with sufficient comfort on their concerns. The primary concerns with the draft DCO 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 draft DCO in subsequent submissions. The Councils acknowledge outline plans referred in the draft DCO are available and content for the Councils to be engaged in agreeing final plans in writing in due course, for example the Outline Construction Worker Travel Plan.</p>	<p>The Applicant confirms that it will engage further with the Councils to understand and progress matters relating to the draft DCO. Where appropriate, the Applicant will provide a response at Deadline 3 alongside any updates to the draft DCO.</p>	<p>Noted. Further discussions on this matter are required by the Host Authorities.</p>
19.2	Draft DCO	<p>The Councils note that consents / approvals are required from one or more of them under various provisions of the draft DCO. 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 eight-week period applies - see paragraph 35 of Schedule 2) the consent or approval is deemed to have been granted. The Councils fully understand the Applicant's need for certainty in terms of timing (and that the Proposed Development should not be unduly delayed due inactivity by the Councils) but there is a material concern that the deemed consent time limits are much too short. It goes without saying that the Proposed Development is a major, complex project - it is a Nationally Significant Infrastructure Project (NSIP) after all. The</p>	<p>The Applicant notes the comments made and will engage further with the Councils to understand and progress these matters.</p> <p>The Applicant considers it is necessary to include deemed consent so as to prevent unnecessarily delaying delivery of the Project. The Applicant has proposed a reasonable period of time for the Councils to determine such requests for approval (i.e., 28 days). The Councils, and other authorities, will have had time during the examination of the project to understand better (compared to any usual approval unrelated to a DCO) the particular impacts and proposals forming part of the DCO.</p>	<p>Noted. Further discussions on this matter are required by the Host Authorities.</p>



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		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 area. 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 Proposed Development being able to proceed in a timely manner and the Councils being able to give applications for consent / approval due consideration.	<p>It is important to note that deemed consent provisions take effect in relation to a failure to reach a decision, not a failure to give consent. It is, of course, open to the Councils and other local authorities, if so minded, to refuse consent or to request further information within the time periods specified.</p> <p>The concept of deemed consent is well precedented: see, for example, article 12(6) of the A19/A184 Testo's Junction Alteration Order 2018, article 15(6) of the A30 Chiverton to Carland Cross Development Consent Order 2020, article 13(8) of the Southampton to London Pipeline Development Consent Order 2020 and article 15(6) of the 303 Sparkford to Ilchester Dualling Development Consent Order 2021.</p>	
19.4	Draft DCO	Draft DCO – Part 3 - Streets 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 Proposed Development 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 Proposed 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 Proposed Development on an unfettered basis.	<p>Noted. The Applicant is considering these comments further. The Applicant will engage further with the Councils to understand and progress these matters.</p>	<p>Noted. Further discussions on this matter are required by the Host Authorities.</p>
19.5	Draft DCO	Article 12 (Construction and Maintenance of New, Altered or Diverted Streets) - Similarly to article 9, the Councils	<p>Noted. The Applicant is considering these comments further. The Applicant will engage further with the Councils to understand and progress these matters.</p>	<p>Noted. Further discussions on this matter are required by the Host Authorities.</p>



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		<p>acknowledge that broadly speaking this provision is in line with a number of precedents.</p> <p>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 DCO 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 Draft DCO.</p>		
19.6	Draft DCO	<p>Article 14 (Permanent Stopping up of Public Rights of Way)</p> <p>- It should be noted that the Councils are currently considering the list of public rights of way contained in Schedule 3 to the draft DCO 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.</p>	<p>The Applicant notes the Councils' comments and confirms that it will engage further with them on this point.</p>	<p>Noted. Further discussions on this matter are required by the Host Authorities.</p>
19.7	Draft DCO	<p>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 draft DCO. 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.</p>	<p>The Applicant notes the Councils' comments and confirms that it will engage further with them on this point.</p>	<p>Noted. Further discussions on this matter are required by the Host Authorities.</p>
19.8	Draft DCO	<p>The Councils note the various powers contained in Part 4 of the draft DCO. 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 ongoing, and the Councils will seek to engage with the Applicant on any areas of concern. As a related point, the Councils note the use of the term 'may be'</p>	<p>Noted. The Applicant is considering these comments further and will engage further with the Councils to understand and progress these matters.</p> <p>On the subject of "may be affected by the authorised development," this form of wording is well precedented and reflects the proportionate degree of flexibility afforded to deliver NSIPs. See, for instance, the Southampton to London Pipeline Development Consent Order 2020 and the Manston Airport</p>	<p>Noted. Further discussions on this matter are required by the Host Authorities.</p>



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		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 draft DCO powers could be implemented, which could impact on the Councils interests. The Councils therefore seek further clarity from the Applicant in this regard.	Development Consent Order 2022. The Applicant can provide further examples to the Councils.	
19.9	Draft DCO	<p>Draft DCO – Part 5 – Powers of Acquisition and Possession</p> <p>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 draft DCO reflect precedent.</p> <p>However, land interests of the Councils are listed throughout the Book of Reference [PINS Ref: 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.</p> <p>The Councils also note the provisions contained in article 35 of the draft DCO 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. The Councils wish 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 Herts Council. Given the need to ensure equivalent provision for local residents (having regard to the definition of "replacement land" in section 131(12) of the Planning Act 2008).</p>	Noted. The Applicant will engage further with the Councils to explain and progress these matters.	Noted. Further discussions on this matter are required by the Host Authorities.
19.10	Draft DCO	<p>Draft DCO – Part 7 - Miscellaneous</p> <p>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 Hertfordshire County Council's land drainage functions /</p>	Noted. The Applicant will engage further with the Councils to understand and progress these matters. The Applicant will wish to understand from Hertfordshire County Council the particular instances where it considers this disapplication may "bite" on land drainage matters within its jurisdiction.	Noted. Further discussions on this matter are required by the Host Authorities.



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		<p>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 draft DCO. Having reviewed the protective provisions contained in Schedule 8 to the draft DCO, at this stage the Applicant does not appear to be proposing to include land drainage protective provisions in the draft DCO. This is a significant concern for Hertfordshire County Council and therefore urgent engagement with the Applicant is sought, as Hertfordshire County Council considers protective provisions are necessary to be included in the draft DCO for its benefit to ensure suitable oversight of land drainage interfaces.</p>		
19.11	Draft DCO	<p>5 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:</p> <p>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;</p> <ul style="list-style-type: none">• The effect this provision would have on the existing planning obligations and how any replacement obligations would be secured;• 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 Proposed Development through the DCO, including its capacity, 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 draft DCO must contain a comprehensive set of controls, at least equivalent in effect to	<p>Noted. The Applicant is considering these comments further. The Applicant will engage further with the Councils to understand and progress these matters.</p>	<p>Noted. Further discussions on this matter are required by the Host Authorities.</p>



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		<p>those conditions contained in the LLAOL Permission and associated planning obligation(s); and</p> <ul style="list-style-type: none">• Practically how the GCG Framework and other restrictions will link to London Luton Airport operations as they sit today - this is because the various obligations in the draft DCO which prevent operations until certain measures are in place (including operational mitigation in Part 4 of Schedule 2 to the draft DCO) only link to the operations of the 'authorised development' which, as defined in article 2, is the Proposed Development authorised by the draft DCO (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 draft DCO 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.		
19.12	Draft DCO	<p>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 Proposed 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. 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.</p>	<p>Noted. The Applicant is considering these comments further. The Applicant will engage further with the Councils to understand and progress these matters.</p>	<p>Noted. Further discussions on this matter are required by the Host Authorities.</p>
19.13	Draft DCO	<p>Draft DCO – Schedule 2, Part 1 and Part 2 – Requirements (General and Construction)</p> <p>General - The Councils note that the Proposed 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</p>	<p>Noted. The Applicant is considering these comments further. The Applicant will engage further with the Councils to understand and progress these matters</p>	<p>Noted. Further discussions on this matter are required by the Host Authorities.</p>



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		is proposed to work in terms of the proposed phasing of the Proposed Development, over quite lengthy periods of time (as per the assumptions contained in the ES). Is a 'part' a geographically distinct part, a temporally distinct part, or both?		
19.14	Draft DCO	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. The Councils will engage with the Applicant on this point.	Noted. The Applicant is considering these comments further. The Applicant will engage further with the Councils to understand and progress these matters.	Noted. Further discussions on this matter are required by the Host Authorities.
19.15	Draft DCO	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 Proposed Development, but note that such details must be in 'general accordance' with the Design Principles [PINS Ref: APP-225]. There are two points to note in this regard: • The Councils are still reviewing the Design Principles to ensure it is fit for purpose; and • 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.	Noted. The Applicant is considering these comments further. The Applicant will engage further with the Councils to understand and progress these matters. As a point of clarity at this stage, the Applicant would highlight that the "relevant planning authority" would approve the details referred to by the Councils. This would be the planning authority in whose area the works in question are taking place.	Noted. Further discussions on this matter are required by the Host Authorities.
19.16	Draft DCO	Requirement 7 (Notice of Commencement of Development) - The Councils require more than 14 days' notice of the commencement of the Proposed 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.	Noted. The Applicant notes the comments made will engage further with the Councils to understand and progress these matters. As above, note that the provision provides notification to the "relevant planning authority," i.e. the planning authority in whose area the works in question are taking place.	Noted. Further discussions on this matter are required by the Host Authorities.



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19.17	Draft DCO	Requirement 8 (CoCP) - CoCP is a key construction works control document. The Councils wish to comment on the wording of the requirement itself as follows: Requirement 8(1) only requires the Proposed 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. 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'.	The Applicant considers the word "substantially in accordance with" to be sufficiently clear, and its usage in other DCOs (including on projects of significant scale and size, see for example Schedule 2 to the A428 Black Cat to Caxton Gibbet Development Consent Order 2022) supports this conclusion. In terms of specific justification for this project, the use of the phrase is necessary and appropriate because the relevant outline management plans for the project are in outline at this stage and will require development following the granting of the DCO (if approved). The Applicant notes the comments made on "the contractor" and is considering these further. The Applicant will engage further with the Councils to progress these matters.	Noted. Further discussions on this matter are required by the Host Authorities.
19.18	Draft DCO	Requirement 9 (Landscaping Design) - The Councils are currently considering the adequacy of the strategic landscape masterplan document, 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).	The Applicant notes the comments made and is considering these further. The Applicant will engage further with the Councils to progress these matters. Where appropriate, the Applicant will provide a response at Deadline 3 alongside any updates to the draft DCO.	Noted. Further discussions on this matter are required by the Host Authorities.
19.19	Draft DCO	Requirement 10 (Landscape and Biodiversity Management Plan) - The Councils are currently considering the adequacy of the outline landscape and biodiversity management plan - 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 Proposed 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.	The Applicant notes the comments made and is considering these further. The Applicant will engage further with the Councils to progress these matters. As an interim response, the Applicant would highlight that the use of "parts" in relation to discharging of requirements is commonplace, as indeed is the use of "relevant planning authority" to address NSIPs which straddle local authority boundaries (again, a circumstance which is commonplace). The Applicant also highlights that the vast majority of the works are situated in the administrative area of Luton Borough Council.	Noted. Further discussions will all Host Authorities on this matter are required by the Hertfordshire Host Authorities.
19.20	Draft DCO	Requirement 11 (Protected Species) - The Councils are currently considering the adequacy of the ecological mitigation strategies, - clearly the efficacy of this	The Applicant notes the Councils' comments and confirms that it will engage further with them on this point.	Noted. Further discussions on this matter are required by the Host Authorities.



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		requirement rests on that. Otherwise, the DCO drafting appears appropriately enforceable, although the Councils request the Applicant engages with it around the split in regulatory oversight between it and Natural England.		
19.21	Draft DCO	Requirement 13 (Surface and Foul Water Drainage) - The Councils are currently considering the adequacy of the surface and foul water drainage plan - clearly 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.	The Applicant notes the comments made and is considering these further. The Applicant observes that in the case of the surface and foul water drainage plan, its content links to the drainage design statement rather than an outline surface and foul water drainage plan. Where appropriate, the Applicant will provide a response at Deadline 3 alongside any updates to the draft DCO.	Noted. Further discussions on this matter are required by the Host Authorities.
19.26	Draft DCO	<p>Draft DCO – Schedule 2, Part 3 – Requirements Pertaining to GCG</p> <p>Part 3 of Schedule 2 to the draft DCO 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 London Luton Airport to grow in operational terms. Given the novel (and critical) nature of these provisions, the Councils request detailed engagement on this as soon as possible.</p> <p>The appropriateness of the GCG Framework will largely rely on technical questions - e.g., the adequacy of the Limits and Thresholds.</p> <p>However, in terms of the DCO Requirements, the Councils have the following initial (but by no means complete set of) comments:</p>	The Applicant notes the comments made and will continue to engage with the Councils to understand and progress these matters. Detailed responses are provided to specific comments made by the Councils in the Applicant's Comments on LIRs to be submitted at Deadline 2a [LIR Ref 9.1.43 – 9.1.65].	Noted. Further discussions on this matter are required by the Host Authorities.
19.33	Draft DCO	<p>Draft DCO – Schedule 2, Part 4 – Requirements Pertaining to Other Operational Matters</p> <p>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</p>	The Applicant notes the comments made and is considering these further. The Applicant will engage further with the Councils to understand and progress these matters. Where appropriate, the Applicant will provide a response at Deadline 3 alongside any updates to the draft DCO.	Noted. Further discussions on this matter are required by the Host Authorities.



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		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.		
19.35	Draft DCO	Requirement 28 (Fixed Plant Noise Management Plan) - The Councils are currently considering the adequacy of the fixed plant noise management plan, - 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 Proposed Development is 'operated' rather than 'carried out'.	Noted. The Applicant can advise that, at Deadline 2, it is submitting a revised draft of the dDCO which replaces "carried out" with "operated" in accordance with the Councils' suggestion.	Noted. Further discussions on this matter are required by the Host Authorities.
19.36	Draft DCO	Requirement 29 (Offsite Highways Works) - The Councils are currently considering the adequacy of the outline transport related monitoring and mitigation approach, clearly the efficacy of this requirement rests on that. Otherwise, the DCO drafting appears appropriately enforceable.	Noted. The Applicant highlights to the Councils that it will be making drafting refinements to this requirement at Deadline 2, having regard to the effect the Applicant intends it to have.	Noted. Further discussions on this matter are required by the Host Authorities.
19.37	Draft DCO	Requirement 30 (Travel Plans) - The Councils are currently considering the adequacy of the FTP, 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.	Noted. The Applicant highlights to the Councils that it will be making drafting refinements to this requirement at Deadline 2, having regard to the effect the Applicant intends it to have.	Noted. Further discussions on this matter are required by the Host Authorities.
19.38	Draft DCO	Requirement 31 (Operational Air Quality Plan) - The Councils are currently considering the adequacy of the outline operational air quality plan, 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.	Noted. The Applicant highlights to the Councils that it will be making drafting refinements to this requirement at Deadline 2, having regard to the effect the Applicant intends it to have. Those amendments will more clearly tie the plan to the airport, and this clarifies that the "relevant planning authority" for that plan would be Luton Borough Council.	Noted. Further discussions on this matter are required by the Host Authorities.
19.39	Draft DCO	Requirement 32 (GHG Action Plan) - The Councils are currently considering the adequacy of the outline GHG	Noted. The Applicant highlights to the Councils that it will be making drafting refinements to this requirement	Noted. Further discussions on this matter are required by the Host Authorities.



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		action plan, 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.	at Deadline 2, having regard to the effect the Applicant intends it to have. Those amendments will more clearly tie the plan to the airport, and this clarifies that the "relevant planning authority" for that plan would be Luton Borough Council.	
19.40	Draft DCO	Requirement 33 (Operational Waste Management Plan) - The Councils are currently considering the adequacy of the outline operational waste management plan, clearly the efficacy of this requirement rests on that. Otherwise, the DCO drafting appears appropriately enforceable.	Noted. The Applicant highlights to the Councils that it will be making drafting refinements to this requirement at Deadline 2, having regard to the effect the Applicant intends it to have.	Noted. Further discussions on this matter are required by the Host Authorities.
19.41	Draft DCO	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 eight 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. 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. 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.	The Applicant notes the comments made and is considering these further. The Applicant will engage further with the Councils to understand and progress these matters.	Noted. Further discussions on this matter are required by the Host Authorities.
19.42	Draft DCO	Turning to Requirement 37 (Appeals to the Secretary of State), the Councils welcome the mechanism proposed for the dealing with of appeals. However, the timescales	Noted. The Applicant's position is that the timescales are proportionate and reasonable in the context of an NSIP and align with precedent.	Noted. Further discussions on this matter are required by the Host Authorities.



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		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.		
19.43	Draft DCO	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 catchall in paragraph (c) is recognised. For example, the express matters appear to only relate to the operation and growth of London Luton 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 ES 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.	The Applicant notes the comments made and is considering these further. The Applicant will engage further with the Councils to understand and progress these matters.	Noted. Further discussions on this matter are required by the Host Authorities.
19.44	Draft DCO	Finally, the Councils note the provision in Requirement 39 (Application of Part 8 of the Planning Act 2008) that provides for non-relevant planning authorities to submit representations to the relevant planning authority, requesting that enforcement action is taken under the Planning Act 2008 in respect of specific GCG Framework related matters. 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. 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	The Applicant notes the comments made and is considering these further. The Applicant will engage further with the Councils to understand and progress these matters.	Noted. Further discussions on this matter are required by the Host Authorities.



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		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.		