

October 2023

London Luton Airport Expansion

Planning Inspectorate Scheme Ref: TR020001

Volume 8 Additional Submissions (Examination)

**8.53 Applicant's Post Hearing Submission - Compulsory
Acquisition Hearing 1 (CAH1)**

Infrastructure Planning (Examination Procedure) Rules 2010

Application Document Ref: TR020001/APP/8.53

The Planning Act 2008

The Infrastructure Planning (Examination Procedure) Rules 2010

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

**8.53 APPLICANT'S POST HEARING SUBMISSION – COMPULSORY
ACQUISITION HEARING 1 (CAH1)**

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1 INTRODUCTION

This document contains Luton Rising's (a trading name of London Luton Airport Limited) (the Applicant) oral summary of evidence and post-hearing comments on submissions made by others at Compulsory Acquisition Hearing 1 (CAH1) held on 26 September 2023. Where the comment is a post-hearing comment submitted by the Applicant, this is indicated. The Applicant has also included tabulated responses to each of the action points raised by the Examining Authority (ExA) for CAH1 published on 4 October 2023.

This document uses the headings for each item in the agenda published for CAH1 by the ExA on 19 September 2023.

2 AGENDA ITEM 1 - WELCOME, INTRODUCTIONS, ARRANGEMENTS FOR THE HEARING

2.1.1 The Applicant, which is promoting a proposal to expand London Luton Airport (the Proposed Development), was represented at CAH1 by Rebecca Clutten of Counsel, supported by the following members of Applicant's team:

- Tom Henderson, Partner, BDB Pitmans, Legal Advisers to the Applicant.
- Mustafa Latif-Aramesh, Partner and Parliamentary Agent, BDB Pitmans, Legal Advisers to the Applicant.
- Stephen Walker, Chartered Surveyor, CBRE, Property Advisers to the Applicant.
- Antony Aldridge, Programme Director, Luton Rising.
- David Mobberley, Senior Associate, WSP.

3 AGENDA ITEM 2 - MATTERS ARISING FROM THE SUPPLEMENTARY AGENDA

3.1.1 In response to the ExA's query, the Applicant explained that the proposed change to the drainage strategy (see **Change Notification Cover Letter [AS-151]** and **Change Notification – Drainage Strategy [AS-152]**) has no implications in relation to compulsory acquisition (i.e., it does not alter or otherwise modify the land acquisition being sought or affect the Order limits). The Applicant acknowledged the ExA's intention to address the contents of the change at ISH6.

3.1.2 The Applicant confirmed the Applicant was considering the supplementary agenda questions was on track to respond by Deadline 3.

4 AGENDA ITEM 3 - PART 5 OF THE DRAFT DCO (ARTICLES 24 TO 41) AND SCHEDULE 6

- The ExA will ask questions in relation to the drafting of the articles in Part 5 of the **draft Development Consent Order (DCO) [REP2-003]**.

4.1.1 The Applicant did not make any submissions under this Agenda item, which – as directed by the ExA – is to be addressed in writing following CAH1.

5 AGENDA ITEM 4 - SCHEDULE 8 OF THE DRAFT DCO – PROTECTIVE PROVISIONS

- Applicant to provide an update on the progress with the drafting/agreement on Protective Provisions.
- Review of whether additional protective provisions need to be included within Schedule 8 **[REP2-003]**.

5.1.1 The Applicant set out the current position in respect of the draft Protective Provisions (PPs) with each of the relevant parties:

- a. Affinity Water (AW) – the Applicant has provided a response to AW's detailed representations but has not yet received a response. On 16 August 2023, the Applicant provided comments in respect of a draft side agreement and protective provisions and the parties have since met twice. The Applicant is still awaiting a substantive response but understands that this will be provided shortly, and so the Applicant sees no reason why further progress will not be made. In response to the ExA's query, the Applicant confirmed that it would not be in a position to resolve the matter by Deadline 3 on 5 October 2023 (this is now Action Point 1 for Deadline 4). The Applicant notes that it will be possible for Affinity Water to rely on the 'generic' PPs in part 1 of Schedule 8 of the **Draft Development Consent Order (Draft DCO) [REP2-003]** applicable to water companies but vary them by agreement with the Applicant, and the parties may decide to take that approach.
- b. Network Rail (NR) – the Applicant is in ongoing discussions with NR and anticipates including PPs in the DCO for NR. The Applicant is unable to provide a precise timeframe for their agreement. By Deadline 4, the Applicant intends to include its proposed version in the **Draft DCO [REP2-003]** (Action Point 2).
- c. Thames Water (TW) – the Applicant has provided TW with a response to their detailed representations, along with a draft side agreement and draft PPs, but has not yet received a substantive response. The Applicant is anticipating (subject to further discussion) that there will be bespoke PPs for TW, but in response to the ExA's query, is not able to confirm at this stage whether these will be agreed by Deadline 4 on 1 November 2023. The Applicant intends to include its proposed PPs in the **Draft DCO [REP2-003]** by Deadline 4 (Action Point 3). As noted above, it will be possible for TW to rely on the default PPs in part 1 of Schedule 8 of the **Draft DCO [REP2-003]** applicable to water companies but vary them by agreement with the Applicant, and the parties may decide to take that approach.
- d. Cadent Gas (CG) – in response to the ExA's query, the Applicant and CG have made some progress since July 2023; the Applicant provided an undertaking of costs in September 2023 and CG provided a draft side agreement and PPs. The Applicant is intending to revert shortly and notes that there are limited issues between the parties. In response to the ExA's query, the Applicant is hopeful that the PPs can be agreed and provided

at Deadline 4, but that if these are not yet agreed, the Applicant will provide its preferred drafting by that deadline, if PPs are required at all (Action Point 4).

- e. UKPN – the Applicant notes that less progress has been made with UKPN. The Applicant has contacted UKPN to clarify whether it is seeking a side agreement and PPs, so that the parties can enable substantive discussions, if necessary, but UKPN is yet to respond. The Applicant's position is that generic provisions in Part 1 of Schedule 8 to the **Draft DCO [REP2-003]** are sufficient for UKPN, should it not provide a response. The position will be clarified further by Deadline 4 (Action Point 5).
- f. National Highways (NH) – the Applicant has provided NH with comments on the draft PPs, and the parties met on 21 September 2023. The Applicant is awaiting a response in respect of the draft PPs but notes that there are only a few issues that remain which the Applicant is hopeful will be resolved shortly. In response to the ExA's query, the Applicant hopes to be able to provide an agreed draft of the PPs at Deadline 4 but will in any event include its preferred draft (Action Point 6).
- g. In response to the ExA, the Applicant explained that the only other PPs which are under consideration are for:
 - i. the drainage authorities in Herts, Dacorum and North Herts; and
 - ii. local highway authorities – the inclusion of PPs would depend on the outcome of negotiations with them (an update will be provided by Deadline 4 – Action Point 7).

6 **AGENDA ITEM 5 - SECTION 122 AND 123 OF THE PLANNING ACT 2008 (PA2008)**

- The Applicant was requested to briefly outlined its case for Compulsory Acquisition (CA) and Temporary Possession (TP) powers and whether it meets the tests of the Planning Act 2008 (PA2008) and the associated statutory guidance including whether all reasonable alternatives have been considered; whether the rights to be acquired are reasonably necessary and proportionate and whether there is a compelling case in the public interest for the land to be acquired.
- The Applicant was requested to provide a brief update on the progress of negotiations and deadlines for their conclusion.

6.1.1 The Applicant referenced Chapter 9 of the **Statement of Reasons (SoR) [AS-071]** which sets out the Applicant's case for how it meets the various tests set out in sections 122-123 and associated CA guidance. The Applicant explained that the Applicant's case can be distilled into five key points:

- a. **Land is required for the authorised development, or to facilitate it, or for replacement land** – the **SoR [AS-071]**, in particular Annex A, the **Land Plans [AS-011]** (including Special Category Land plans), **Work Plans [AS-012-017]**, **Book of Reference (BoR) [APP-011]** and **Draft Development Consent Order (Draft DCO) [TR020001/APP/2.01]** show how and why the land is required and how such land would be used. The

Applicant explained that the nature and duration of the Proposed Development means that some degree of flexibility is required in implementing the authorised development required, which the Limits of Deviation provide. The Applicant confirmed that its position is that only land that is required will ultimately be acquired.

- b. **Need for Proposed Development** – this is set out in the **Need Case [AS-125]** and section 4.3 of the **SoR [AS-071]**. The Applicant explained that these documents identify the urgent and vital need for the Proposed Development. The need derives from national, regional and sub-regional economic and other policies focussed on building economic growth. The Applicant explained that the need is also driven by future demand, forecasts for which show additional capacity is urgently needed to keep pace with demand. In addition, the Proposed Development would support the Oxford-Cambridge Arc – as the only major airport within the Arc, it would support growth of high value sectors, as well as supporting the government's levelling up agenda through the delivery of investment, skills and jobs. The Applicant noted that, as a result of the Proposed Development, there would be substantial employment and GDP benefits, both locally and at a regional/national level, as well as consumer benefits arising from reduced journey times and convenient airport access.
- c. **Consideration of all reasonable alternatives** – The Applicant noted that the Applicant has:
- considered alternative sites and layouts, as reported in **Chapter 3** of the Environmental Statement **[AS-026]** and in the **Consultation Report [AS-048]**;
 - considered alternatives to compulsory acquisition, noting that the Applicant already owns or controls much of the land and rights in land required for the Proposed Development;
 - considered alternatives to outright acquisition, including by acquiring rights or taking of temporary possession; and
 - engaged with affected parties in respect of acquiring all land and rights it needs by voluntary agreement, subject to the DCO being made.
- d. **Necessary and proportionate** – in the case of each plot of land, the powers sought by the Applicant are necessary to deliver the proposals and are proportionate to the degree of interference with any private rights. The Applicant has sought to take powers to temporarily use land, rather than the compulsory acquisition of land or rights where appropriate and has included within the Order Limits no more land than is reasonably required. The Applicant is ensuring compensation is available for acquisition, severance and injurious affection. The Draft DCO seeks powers for 10 years, which is longer than the standard period. As set out in the **SoR [AS-071]** this is justified on the basis that it facilitates an incremental approach to growth, which entails a lengthy period of necessary earthworks and phasing (which is preceded on similar large projects) and facilitates acquisition at the necessary time and no earlier.

- e. **Compelling case in the public interest** – the Applicant's position is that the **Need Case [AS-125]** demonstrates a very strong and compelling case in the public interest for the Proposed Development to be delivered. The Proposed Development would create new jobs and generate economic, social and consumer benefits. Any disadvantages to the community are proposed to be minimised through design and mitigation measures. The Applicant is seeking to ensure that interference with private rights is minimised and considers that the balance is decisively in favour of the granting of compulsory acquisition powers.

- 6.1.2 In response to the ExA's query on why land owned by the Applicant was subject to compulsory acquisition, the Applicant confirmed that including powers of acquisition over land that the Applicant already owns is a standard approach; it enables the Applicant to "clear the title" to the land, for example in respect of minor interests, so that ultimately there is no impediment to delivery of the authorised development. In respect of Crown land, the Applicant confirmed that this is excluded from compulsory acquisition within the **BoR [APP-011]**.
- 6.1.3 The Applicant further noted that in relation to hedgerow improvement work and the proposed screening to footpaths, these land and rights are required to deliver essential mitigation for landscape and visual effects. The Applicant's position is that the balance between the interference in the landowners' interest and the need to deliver essential mitigation is appropriate in this instance.
- 6.1.4 The Applicant confirmed in response to the ExA that land has been included in the Order Limits for necessary off-site highway mitigation works.
- 6.1.5 In respect of land at Wigmore Valley Park, the Applicant confirmed that the plot of land not included in that area (in between plots 5-13 and 5-03 on **the Land Plans [AS-011]**) is already owned by the Applicant and is subject to a farming tenancy. It is not needed for the Proposed Development and so falls into the category of 'white land' as explained in the **SoR [AS-071]**.
- 6.1.6 In response to the ExA's questions, the Applicant confirmed that it is was in active discussion with the representatives of Mr Eldridge.
- 6.1.7 In relation to questions regarding plot 6-04, the Applicant explained that this is proposed for woodland improvement as part of the Proposed Development's essential ecological mitigation. A pipeline is also expected to route through the same plot of land. The Applicant noted that acquisition here is limited to "rights only".
- 6.1.8 In response to the ExA and the submission by Bloor Homes Limited, the Applicant explained that it has continued to engage in dialogue with Bloor Homes Limited to understand which parts of the land within Order Limits Bloor Homes Limited holds under option. The Applicant confirmed that the current landowners are Offley Chase Estates and the Trustees of Paul Tomkins. The Applicant explained that it hopes to work towards an agreement with all parties before the close of the examination period.
- 6.1.9 In response to the ExA, the Applicant confirmed that Harrods Aviation Limited is in the **Status of Negotiations/Compulsory Acquisition Schedule [REP2A-**

003] because areas of its lease demise are included within the Order Limits. London Luton Airport Parking appeared in the CA schedule as it was initially understood by the Applicant to have an interest in the car parking areas of Vauxhall Way but has since confirmed it has no interest in the land, so the Applicant would remove it from the CA schedule.

6.1.10 The Applicant noted that Ryebidge Autos were also included in the **Status of Negotiations/Compulsory Acquisition Schedule [REP2A-003]**, as the Applicant understood their rights of access to potentially be impacted, which has since proved incorrect. The Applicant noted that it would be updating the Status of Negotiations/Compulsory Acquisition Schedule.

6.1.11 **Post-hearing note:** the **Status of Negotiations/Compulsory Acquisition Schedule [TR020001/APP/8.53]** submitted at Deadline 3 includes the removal of London Luton Airport Parking and Ryebidge Autos (CAH1 Action Points 11 and 12).

7 **AGENDA ITEM 6 - SECTION 131 AND 132 OF THE PA2008 WITH REFERENCE TO WIGMORE VALLEY PARK**

- The Applicant to set out the case for CA and TP with regards to sections 131 and 132 (Commons, Open Space or Fuel or Field Allotments).
- ExA to examine loss of Wigmore Valley Park and the proposed replacement land.

7.1.1 The Applicant explained that the **BoR (Part 5) [APP-011]** and **Special Category Land Plans [AS-021]** identify the open space and replacement land being acquired. In particular, sheets 3, 5, 6 and 7 show the land coloured pink, which is to be acquired, and the land coloured purple as replacement land. The Applicant explained that the existing land in Wigmore Valley Park and existing agricultural land/woodland to the immediate east is what is required by the Applicant.

7.1.2 The Applicant noted that the six open space parcels are 3-01, 5-06, 5-09, 5-12, 5-15 and 5-22, and their areas total 359,029 square metres. The replacement land parcels are 5-13 and 6-20, and their areas total 363,824 square metres, therefore greater than the open space being lost. The Applicant signposted to section 12.1 of the **SoR [AS-071]**, which demonstrates that the replacement land satisfies section 131 tests:

- a. Not less in area than the relevant special category land;
- b. No less advantageous to the public; and
- c. Has been or will be vested in the prospective seller and subject to the same rights, trusts and incidents as attached to the order land.

7.1.3 In considering the section 131 tests, the Applicant noted:

- a. *Not less in area:* the existing area of open space within the Order Limits is 35.9ha and while some of this required for works, the Applicant will be carrying out enhancements to open space (Work no. 5b(01)) and creating new replacement open space (Work no. 5b(02)) as part of the Proposed

Development. The **Draft DCO [REP2-003]** provides for 36.3ha of replacement open space to be compulsorily acquired and, following the Applicant's enhancement of existing and creation of new replacement open space, Wigmore Valley Park will be at least 47.6ha once vested. At least 11.2ha of the existing open space would remain as open space so, in conclusion, the replacement land is no less in area.

- b. *No less advantageous*: the main entrance to the park is retained, and the Applicant is proposing the establishment of natural habitats, delivering areas of meadow grassland, native shrub planting, broadleaf woodland, and mixed-species hedgerows with hedgerow trees, as well as several surfaced footpaths to upgrade connections to the surrounding rights of way network. The proposals include appropriate signage and facilities to help support various user groups, as well as additional opportunities for unstructured or natural play, including some additional recreational facilities, the specific nature of which is still to be determined but could potentially include additional picnicking facilities, play equipment, gym equipment or trim-trail measures (which is secured through the landscape plans under Requirement 9 of the **Draft DCO [REP2-003]**). The Applicant is proposing that the replacement land is made available before the existing open space is closed off for the Proposed Development, and this commitment is secured in the **Code of Construction Practice (CoCP) [APP-049]**.
- c. *Vested in the prospective seller and subject to the same rights, trusts and incidents as attached to the Order land* – the land will initially be vested in Luton Borough Council (LBC) before being transferred to a Community Trust to be established.

- 7.1.4 The Applicant confirmed that Special Parliamentary Procedure should not apply because the Applicant is providing replacement land that is no less advantageous than the land being acquired. Further, the Applicant is not acquiring rights over any special category land, so section 132 does not apply.
- 7.1.5 In response to the ExA's questions, the Applicant confirmed that full acquisition of the existing park is necessary, as the Applicant is intending to provide enhancements to existing open space.
- 7.1.6 The Applicant clarified that the proposed replacement land has been managed for a number of years to reduce historic nutrient levels resulting from farming. The Applicant agreed to look into any potential existing informal use of the land by members of the public, noting that the land is crossed by formal public rights of way.
- 7.1.7 **Post-hearing note:** the Applicant would emphasise that any use of the land (otherwise than on formal public rights of way) is unauthorised. The Applicant will provide an update in relation to Action Point 14 at Deadline 4 (CAH1 Action Point 14).
- 7.1.8 In relation to written submissions made by Friends of the Earth, the Applicant confirmed that it would revert in writing (CAH1 Action Point 15) in relation to accessibility queries and clarified that the main entrance to the park remains as

it is, noting that the park is large and that reaching the far end is quite a distance. The Applicant confirmed that elderly people will be able to access the replacement park via the main entrance, as they can currently.

7.1.9 The Applicant explained in response to the ExA's query, that the detailed design of the park is to be determined and that the Applicant will take experience of users of the park into account. The Applicant's position is that the space will be fundamentally similar to the existing park and so it does not consider that it would be any more disadvantageous to the public. The Applicant agreed to take the ExA's point away for consideration in respect of an assessment to compare the current and proposed experience of the park (CAH1 Action Point 16 for Deadline 4).

7.1.10 In response to the ExA, the Applicant confirmed that in section 12.1.1(e) of the **CoCP [APP-049]**, the Applicant states that it will maintain access to Wigmore Valley Park until the replacement open space is completed and accessible to the public. The Applicant's intention is that the park will be open and accessible to the public until replacement land is available, at which point the construction work will start. The Applicant confirmed that it will review the application documents to ensure this position is reflected throughout. The Applicant further confirmed that the Applicant would confirm in writing the position in respect of the Applicant's consideration of alternatives (Action Point 19).

7.1.11 In response to the ExA's query regarding the designations at Wigmore Valley Park, the Applicant confirmed that there have not been any developments in relation to the registration of the park as an Asset of Community Value (ACV), noting that the land is currently owned by LBC and that no acquisition had previously been sought by the Applicant. The Applicant clarified that the ACV registration does not affect its powers of compulsory acquisition if this land were to be acquired by a third party.

7.1.12 **Post-hearing note:** The Applicant responded to the comments made by SLAE regarding Green Horizons Park and brownfield alternatives in the **Applicant's Response to Written Representations made by Non-statutory Organisations at Deadline 1 [REP2-037]**, p. 189-190.

8 **AGENDA ITEM 7 - SECTION 135 OF THE PA2008 – CROWN LAND**

- Applicant to confirm whether all Crown land has been identified in part 4 of the **BoR [APP-011]** and on the **Crown Land Plans [AS-024]** given that all the plots in which the Crown has an interest should be identified.
- Whether the Draft DCO would effectively prevent CA of any interest held by or on behalf of the Crown, with particular reference to article 39.
- Applicant to provide a brief update on the progress of obtaining Crown consent.

8.1.1 The Applicant confirmed that the Compulsory Acquisition Schedule would be updated to include Crown interests (part of Action Point 20 for Deadline 4). The Applicant explained that there are 16 parcels in total (see Section 12.2 of the

SoR [AS-0711]). Two of the 16 parcels were identified in the name of the Secretary of State (SoS) for Defence. After detailed inquiry, the Applicant explained that the SoS for Defence has confirmed that they have no interests in this area and do not know the beneficiary of the rights in this area. The Applicant's intention is for them to be removed from the updated **BoR [AS-0711]**. The Applicant continued to explain that one parcel has been identified in the name of the SoS for the Department for Levelling Up, Housing and Communities (DLUHC), but that the BoR makes provision to exclude the interests held by the Crown in this plot, so will not be affected by the Proposed Development. The Applicant confirmed that the remaining 13 plots are all identified as bona vacantia; 12 are following the dissolution of a company in 2015 and another in 2020. The Applicant noted that contact has been made with the Government Legal Department (GLD) who are currently undertaking their review, and the Applicant expects a response from the GLD to confirm that the interests in question have been disclaimed, in which case the Applicant would discount them as Crown land.

8.1.2 In response to the ExA's query, the Applicant confirmed that it was not aware of any escheat land (see further the response to CAH1 Action Point 21 below) and noted the ExA's request that the Applicant's position in respect of Crown consent should be provided.

8.1.3 **Post-hearing note:** the Applicant's position in respect of Crown consent to be provided by Deadline 9 on 30 January 2024 (CAH1 Action Point 22).

9 AGENDA ITEM 8 - FUNDING

- The resource implications of both acquiring the land and implementing the project for which the land is required.
- Whether adequate funding is likely to be available to enable CA to proceed within the statutory period following the DCO being made.

9.1.1 The Applicant confirmed that cost estimates and selection of options have been informed by professional advice. The Applicant is aware of the concerns expressed by Interested Parties and noted that an update to the **Funding Statement [APP-012]** could be provided by the Applicant at Deadline 5 on 14 November 2023 (CAH1 Action Point 23). The Applicant acknowledged the ExA's suggestion that the Funding Statement requires more detail and the ExA's suggestion to consider the Portishead Branch Line DCO Funding Statement as an example.

10 AGENDA ITEM 9 - CATEGORY THREE PERSONS

- Whether all Category Three persons have been identified in the BoR.
- The compensation available to these persons and whether it is sufficient.

10.1.1 The Applicant acknowledged and understood the ExA's comments regarding sufficient funding for compensation in relation to noise impacts, including what the implications for funding are and whether the proposed compensation is fit for purpose.

- 10.1.2 In response to the ExA's query about eligibility for the hardship scheme, the Applicant noted that the 15% reduction in value trigger is well-precedented, for example in HS2 and National Highways discretionary compensation policies. It is also consistent with decisions by the Lands Tribunal on cases involving claims for material detriment.
- 10.1.3 In response to the ExA's query relating to evidence of inability to sell, the Applicant confirmed that this would include statements from estate agents active in the area, who could provide any reasoning for a lack of ability to sell properties affected, or from prospective buyers who may have previously been interested in buying but are no longer interested due to impacts from the Proposed Development (CAH1 Action Point 24).
- 10.1.4 In relation to eligibility criteria, the Applicant confirmed the ExA's suggestion that examples of what might be required could be included in the **Draft Compensation Policies, Measures and Community First [REP2-005]** but it was important not to predetermine what would be acceptable evidence.
- 10.1.5 The Applicant explained that a single provider is identified to install the noise insulation, as this is currently the arrangement in place for the airport's existing policy. The Applicant has proposed maintaining a single provider following consultation with Heathrow Airport and National Highways who operate similar noise insulation policies through a single provider. On the volume anticipated, the Applicant explained that research indicates that a single provider could deal with the increased volume anticipated. In response to the ExA, the Applicant confirmed that it has not ruled out the possibility of appointing more than one provider which could be introduced if appropriate following a procurement process.
- 10.1.6 In response to the ExA's comment, the Applicant confirmed that the compensation amounts in the **Draft Compensation Policies, Measures and Community First [REP2-005]** have been set generously by the Applicant and are informed with reference to other noise insulation policies operated at other airports in the UK. The Applicant has set the amounts at a higher level to deal with the potential for price increases over time.
- 10.1.7 **Post-hearing note:** the Applicant to respond in writing in relation to evidence to support its compensation policy at Deadline 4 (CAH1 Action Points 24 and 25).
- 10.1.8 In response to the ExA's queries, the Applicant confirmed that it would respond in writing in relation to:
- a. Detail relating to the link between Green Controlled Growth and noise insulation measures (CAH1 Action Point 26 for Deadline 3 – see the response in the table below);
 - b. The exclusion of insulation of outbuildings, the position in respect of the provision of annexed residential accommodation, and the position in respect of rooms used solely for leisure activities (to, which will also be addressed within the Applicant's response in relation to compensation policy matters) (CAH1 Action Points 27 and 28 for Deadline 3 – see the responses in the table below);

- c. The sufficiency of the £500 contribution for properties with Listed Building Consent by Deadline 4 (CAH1 Action Point 25); and
- d. Whether a set of minimum requirements for testing of the completed insulation is possible, noting the suggestion from the ExA to consider improving the text at paragraph 6.1.42 of the **Draft Compensation Policies, Measures and Community First [REP2-005]** (CAH1 Action Point 29 for Deadline 4).

- 10.1.9 In response to the ExA's suggestion of an online compensation eligibility portal, the Applicant observed that this could cause confusion with the airport's existing compensation policy, which the Applicant is seeking to avoid. The Applicant noted that the noise contours applicable to the proposed new policy are already in the draft, demonstrating the Applicant's proactive approach, and should assist people with their understanding of the eligibility criteria. The Applicant confirmed that it would actively assist those seeking further clarification in respect of their future eligibility and reminded the ExA that the contours would be updated in the future and so could only provide an indication of eligibility at this stage.
- 10.1.10 In relation to there being potential for homeowners to be eligible for more than one scheme, the Applicant explained that part of the process will involve the contractor's sending surveyors to the property to carry out an assessment to identify potential insulation available up to the amount offered under the **Draft Compensation Policies, Measures and Community First [REP2-005]**. The homeowner would then be invited to consider the options in the policy. The Applicant noted that the insulation chosen would likely depend on how the owner used the property and what insulation already existed.
- 10.1.11 In response to the ExA questions, the Applicant confirmed that Scheme 3 specifies eligible rooms being bedrooms because it is proposed for mitigation against night-time effects hence reference to the night-time noise contour. To protect against night-time noise, bedroom windows and loft boarding would be the targeted insulation measures under Scheme 3.
- 10.1.12 The Applicant confirmed that obtaining permission for works to a listed building is the responsibility of the homeowner, and they have an obligation to ensure the works are done in accordance with any relevant listing. The Applicant confirmed that whilst there is no charge for securing listed building consent there is a requirement to obtain planning permission which would currently incur a planning fee of £170 through LBC. The Applicant noted that it would consider the ExA's comment in relation to the sufficiency of providing a £500 contribution.
- 10.1.13 The Applicant advised that the **Draft Compensation Policies, Measures and Community First [REP2-005]** would be secured through the section 106 agreement, but if this proved problematic within the timescales of the examination, the Applicant would look for an alternative means to secure it.

11 AGENDA ITEM 10 - ACTION POINTS ARISING FROM THE HEARING

11.1.1 See Table 1.1 below.

12 AGENDA ITEM 11 - ANY OTHER BUSINESS

12.1.1 The Applicant noted that some of the hearing action points would require some detailed work and that where the Applicant can do so, it would provide responses or material at Deadline 3, or otherwise provide an indication of when this can be provided at Deadline 3.

12.1.2 **Post- hearing comment:** the Applicant submitted a written request regarding changes to deadlines **[AS-155]** to address the post-hearing actions, which has been addressed by the ExA in their letter of 3 October 2023 under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 (as amended).

13 AGENDA ITEM 12 - CLOSE OF HEARING

13.1.1 The Applicant did not make any submissions under this agenda item.

Responses to Action Points from CAH1

Table 1.1: Applicant's Response to CAH1 Action Points

Action	Description	When	Applicant's response
1	Bespoke protective provision for the benefit of Affinity Water to be inserted into Schedule 8.	D4	The Applicant noted this action and will address it at the relevant deadline. The outcome will depend on ongoing discussions with Affinity Water. If protective provisions are concluded to be necessary but the form of them has not been agreed, the Applicant intends to insert its proposed drafting (as with Action Points 3 and 4).
2	Bespoke protective provision for the benefit of Network Rail to be inserted into Schedule 8.	D4	The Applicant noted this action and will address it at the relevant deadline. The outcome will depend on ongoing discussions with Network Rail. If the form of them has not been agreed, the Applicant intends to insert its proposed drafting (as with Action Points 3 and 4).
3	Bespoke protective provision for the benefit of Thames Water to be inserted into Schedule 8 or Applicant to provide a version of its proposed drafting.	D4	The Applicant noted this action and will address it at the relevant deadline. The outcome will depend on ongoing discussions with Thames Water. If protective provisions are concluded to be necessary but the form of them has not been agreed, the Applicant intends to insert its proposed drafting.
4	Bespoke protective provision for the benefit of Cadent Gas to be inserted into Schedule 8 or Applicant to provide a version of its proposed draft.	D4	The Applicant noted this action and will address it at the relevant deadline. If the form of protective provisions has not been agreed by Deadline 4, the Applicant intends to insert its proposed drafting.
5	Confirmation as to whether a bespoke protective provision for the benefit of Eastern Power Networks Plc and UK	D4	The Applicant noted this action and will address it at the relevant deadline.

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	Power Network Operations Ltd is to be inserted into Schedule 8 or whether the Part 1 provision for the protection of electricity, gas, water and sewage undertakers is to be amended to address Eastern Power Networks Plc and UK Power Network Operation Ltd.		
6	Bespoke protective provision for the benefit of National Highways to be inserted into Schedule 8.	D4	The Applicant noted this action and will address it at the relevant deadline. The outcome will depend on ongoing discussions with National Highways. If the form of protective provisions has not been agreed, the Applicant intends to insert its proposed drafting at Deadline 4.
7	Bespoke protective provisions for the local highway authorities to be agreed.	D4	The Applicant noted this action and will address it at the relevant deadline. The outcome will depend on ongoing discussions with local highway authorities – it is yet to be concluded whether the concerns raised by local highway authorities will be addressed in protective provisions, in side agreements, or both.
8	If Statutory Undertakers' objections remain outstanding a Section 127/138 case will need to be submitted at Deadline 9.	D9	The Applicant noted this action and will address it, if necessary, at the relevant deadline.
9	Continue discussions with the Eldridge family and provide ongoing updates regarding the status of negotiations with the aim to have a voluntary agreement in place before the close of the Examination.	D4	The Applicant noted this action and will address it at the relevant deadline.
10	Confirmation whether the proposed hedgerow works in relation to the Bloor Homes plots would be required for	D4	The Applicant noted this action and will address it at the relevant deadline.

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	screening or ecological enhancement purposes. Continue discussions with Bloor Homes and provide ongoing updates regarding the status of negotiations with the aim to have a voluntary agreement in place before the close of the Examination.		
11	Check the representation made by London Luton Limited [RR-0857] to assess whether this is an objection to Compulsory Acquisition and if not to be removed from the Compulsory Acquisition Schedule.	D4	The representation is not an objection to CA and the entry has therefore been removed from the updated Status of Negotiations/Compulsory Acquisition Schedule [TR020001/APP/8.34] submitted for Deadline 3.
12	Ryebridge Construction to be removed from the Compulsory Acquisition schedule.	D4	This entry has been removed from the updated Status of Negotiations/Compulsory Acquisition Schedule [TR020001/APP/8.34] submitted for Deadline 3.
13	The Compulsory Acquisition Schedule [REP2A-003] to be checked to make sure that the plots listed reflect the plots listed in the Book of Reference [APP-011]	D4	The work to check the plot numbers in the Status of Negotiations/Compulsory Acquisition Schedule [TR020001/APP/8.34] has been completed and provided in the revised document submitted for Deadline 3.
14	Provide an assessment of the current use of the proposed replacement land for the replacement of Wigmore Valley Park (including informal use).	D4	The Applicant noted this action and will address it at the relevant deadline.
15	Provide a quantitative (or semiquantitative) assessment of the distances travelled by users of Wigmore Valley Park by car and foot. Provide an equivalent assessment of the distances	D4	The Applicant noted this action and will address it at the relevant deadline.

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	that would need to be travelled to the proposed new park. This should take into consideration the distance that must be travelled into the park to obtain an equivalent quality of experience depending on the purpose of the visit.		
16	Provide a qualitative assessment of the experience of park users, including (but not limited to) outlook, openness and character. Refer to the Relevant Representations to determine what people value when undertaking this assessment	D4	The Applicant noted this action and will address it at the relevant deadline.
17	Confirm that the existing Wigmore Valley Park would not be developed until the replacement park is 'open' and explain where this is secured in the draft Development Consent Order. Provide a definition of 'open'.	D4	The Applicant has confirmed in section 1.6 that the existing Wigmore Valley Park would not be developed until the replacement park is 'open'. The Applicant is exploring whether this commitment can be more clearly and substantially drafted in the CoCP [APP-049] and will provide an update at Deadline 4.
18	Confirm how the Community Trust would be secured, what it would involve, and the timescales associated with it and how this would differ from the management of the proposed replacement park that would be delivered under the Green Horizons Park consent.	D4	The Applicant noted this action and will address it at the relevant deadline.
19	Provide information regarding the assessment of alternatives to the removal of the existing land at Wigmore Park. This should include consideration	D4	The Applicant noted this action and will address it at the relevant deadline.

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	of why multistorey car parks are not proposed and why brownfield land to the south west of the airport is not proposed to be utilised.		
20	Include details of Crown land within the Compulsory Acquisition schedule and provide an update on the current progress of negotiations.	D4	These details have been included in the updated Status of Negotiations/Compulsory Acquisition Schedule [TR020001/APP/8.34] submitted at Deadline 3.
21	Confirm whether there are any plots that are affected by Escheat and if they are affected, amend the relevant documents accordingly.	D3	There are no plots currently affected by Escheat. The Applicant continues to work with GLD to determine whether the plots formerly owned by Birkby Limited (dissolved Feb 2015) will be disclaimed or whether they could become affected by Escheat. The Applicant will aim to have the matter resolved and reported to the ExA by Deadline 9.
22	If agreement has not been reached regarding the acquisition of Crown land a Section 135 case to be submitted at D9.	D9	The Applicant noted this action and will address it, if necessary, at the relevant deadline.
23	Update the funding statement to provide further detail as to how the Proposed Development would be funded including how the cost of compulsory acquisition would be covered.	D5	The Applicant noted this action and will address it at the relevant deadline.
24	Provide detail to the compensation document to include guidance as to what evidence a resident would be required to provide to demonstrate that a lack of sale was due to the Proposed Development.	D4	The Applicant noted this action and will address it at the relevant deadline.

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25	Provide evidence to demonstrate that the insulation offer still provides a meaningful contribution to insulation. Include in this work an assessment in relation to the cost to listed building homeowners in preparing consent applications in relation to compensation work.	D4	The Applicant noted this action and will address it at the relevant deadline.
26	Explain in practical terms what paragraph 5.8.10 of the Planning Statement [AS-122] means.	D3	<p>Para 5.8.10 states: <i>Any variations to the [noise compensation scheme] policy would need to be agreed with Luton Rising and the relevant LPA. It is intended that the policy be subject to review and that the review mechanism will tie in with the Green Controlled Growth obligations (rather than being linked to inflation).</i></p> <p>The Green Controlled Growth obligations include a 5-yearly review of the noise forecasts. This will provide updated noise contours which will also be used to update the noise insulation aspects of the Draft Compensation Policies, Measures and Community First [REP2-005]. As part of the updating of the noise insulation policy resulting from updated noise contours, the level of financial contribution for each of the various noise insulation schemes within the policy will be reviewed and updated where necessary to ensure that it is capable of maintaining an appropriate level of efficacy. This will be further clarified along with other updates to the compensation proposals document at Deadline 4</p>
27	Explain what is meant by 'rooms used solely for leisure activities' in relation to paragraph 6.1.8(a) of the Planning Statement [AS-122].	D3	The wording of the policy is intended to provide clarity that the offer of insulation is intended for habitable rooms within a property. Increasingly properties are extended or adapted to include garden and annexed rooms used for a variety of

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			purposes. Sunrooms, rooms used for exercise or where hobbies take place would generally fall into the definition of 'rooms used solely for leisure activities'.
28	Confirm if outbuildings which are residential in nature would be excluded from the provisions.	D3	The Applicant can confirm that it is not intended that the policy would exclude residential accommodation provided either in outbuildings or annexed to a main residence.
29	Produce a set of minimum requirements for the noise insulation testing policy, to provide certainty regarding the future process.	D4	The Applicant noted this action and will address it at the relevant deadline.
32	Revise plans to more clearly show the difference between proposals for hedgerow works and access for these works.	D4	The Applicant noted this action and will address it at the relevant deadline.