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London Luton Airport Expansion

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**8.54 Summary of changes to the Draft Development
Consent Order**

Infrastructure Planning (Examination Procedure) Rules 2010

Application Document Ref: TR020001/APP/8.54

The Planning Act 2008

The Infrastructure Planning (Examination Procedure) Rules 2010

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

**8.54 SUMMARY OF CHANGES TO THE DRAFT DEVELOPMENT
CONSENT ORDER**

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1 INTRODUCTION

1.1 Purpose of this document

1.1.1 This document sets out Luton Rising's (a trading name of London Luton Airport Limited) ('the Applicant's') schedule of changes to the draft Development Consent Order ("DCO"). It includes changes made both during the pre-examination and examination phases.

2 APPLICANT'S SCHEDULE OF CHANGES TO DRAFT DCO

Provision	Change made to the dDCO	Explanation for change
As a result of Section 51 Advice		
Article 2	Definition of Land Plans and Crown Land Plans	<p>Consequential amendments due to the splitting of the joint Land Plans and Crown Land Plans [APP-015] into two separate sets of plans [AS-011 and AS-024].</p> <p>Further consequential amendments made at Schedule 5, Schedule 7 and Schedule 9.</p>
Schedule 9	Updated list of certified documents	<p>Consequential amendments due to the splitting of the joint Land Plans and Crown Land Plans [APP-015] into two separate sets of plans [AS-011 and AS-024]; and due to various chapters, appendices and figures of the Environmental Statement being updated.</p>
As a result of the Rule 9 letter dated 16 May 2023		

Provision	Change made to the dDCO	Explanation for change
Schedule 2 - Requirements	<p>The following typographical errors have been amended:</p> <ul style="list-style-type: none"> - Requirement 2(3) - ‘...approval sought is would not give rise...’. - Requirement 6 - table entry for Luton DART final column to read ‘...and excludes development...’. - Requirement 20(7) - ‘The bodies invited to nominate technical representative..’ to read ‘a technical representative’. - Requirement 20(9) to read ‘Each Technical Panel...’ - Requirement 24(4)(b) to read ‘received the Mitigation Plan...’ - Requirement 24(5) to read ‘A mitigation Plan...’ - Requirement 28 to read ‘with the fixed plant...’ - Requirement 37(14) to read ‘the Department for Levelling Up, Housing and Communities and the Ministry for Housing...’ 	Rectifying typographical errors identified in the Rule 9 letter.
Deadline 2		
Table of Contents	Deletion of Parts 1 and 2 in Schedule 3.	Rectifying a typographical error – Schedule 3 is not separated into “Parts”. There are no public rights of way being stopped up for which a substitute is being provided.
Article 2(1)	Amendment to definition of, “relevant highway authority”. To clarify that National Highways is the	To clarify that National Highways is the “relevant highways authority” for highways within its network.

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	“relevant highways authority” for highways within its network.	
Article 7	Correction of typographical error.	There is no “paragraph 2” in this provision.
Article 12(1)	Insertion of “relevant”.	This is to ensure all references are to the “relevant highway authority”, as intended.
Article 19(11)	Adjustments to the description of the scope of a consent under section 118 of the Water Industry Act 1991.	These amendments were requested by Thames Water. They ensure that article 19(11) is consistent with section 118 of the Water Industry Act 1991.
Schedule 1, Work No. 6d	Correction of typographical error.	There is no work “6dc”.
Schedule 2, paragraph 8(1)	Removal of the tailpiece.	This is unnecessary because paragraph 2 of Schedule 2 already makes provision to amend approved plans, details and schemes under Schedule 2, provided certain conditions are met and necessary further approvals obtained.
Schedule 2, paragraphs 29 to 33	Production of these operational plans has now been tied to throughput moving beyond the “cap permitted by the LLAOL planning permission” rather than the implementation of “part of the authorised development”. In addition, amendments have been made to tie these plans to the operation of the “airport”, rather than the operation of “part of the authorised development”.	The Applicant has recognised that the obligation to produce these plans should be tied to accessing the throughput authorised by the DCO, not to the operation of (part of) the authorised development, which could result in unintended effects. Furthermore, it was always intended that these plans by their nature would apply to the operation of the airport (as expanded), not “part” of it.
Schedule 2, paragraph 36	Correction of typographical errors.	All references should be to “discharging authority”.
Schedule 8, paragraph 2	Correction of typographical errors.	There was a duplicate reference to “sewerage undertaker”.

Provision	Change made to the dDCO	Explanation for change
Deadline 3		
Preamble	Amendments made to refer to a Panel rather a single inspector.	Amendments have been made to reflect the fact that the Examining Authority is a Panel of five members, rather than just a single inspector. This is in response to the Examining Authority's supplementary agenda additional questions ISH1.G.01, ISH1.G.02 and ISH1.G.03.
Article 2	Insertion of the definition of two additional pieces of legislation. Consequential amendments have also been made at: <ul style="list-style-type: none"> - Article 19(7) - Article 19(10) - Article 37(8) - Article 38(4) 	The Examining Authority's supplementary agenda additional question ISH1.A.01 identified two further pieces of legislation that would benefit from being defined. The Applicant has made those changes.

Provision	Change made to the dDCO	Explanation for change
Article 2	<p>The definition of a number of documents listed in Schedule 9 of the Draft DCO as certified documents has been updated. These are:</p> <ul style="list-style-type: none"> - Airport Access Road and Luton DART long section plans; - Airport Boundary Plan; - Book of Reference; - Crown Land Plans; - Environmental Statement; - Land Plans; - Special Category Land Plans; - Streets, Rights of Way and Access Plans; and - Works Plans. 	The amendments have been made in response to the Examining Authority’s supplementary agenda additional question ISH1.A.03 in order to provide greater precision.
Article 2	Deletion of the definition of “associated development” and inclusion of “and any other development authorised by this Order” in the definition of “authorised development”.	The definition of “associated development” has been deleted from article 2, because it forms part of the “authorised development” as defined by article 2 and set out in Schedule 1.
Article 8	Replacement of the term, “grantee” with “lessee”.	Amendment made to bring this in line with usual drafting in DCOs and in response to the Examining Authority’s supplementary agenda additional question ISH1.A.07.
Article 10	Insertion of words, “within or” in article 10(1)(a).	The amendments have been made in response to the Examining Authority’s supplementary agenda additional question ISH1.A.11, and in order to provide greater precision.

Provision	Change made to the dDCO	Explanation for change
Article 11	Insertion of words, “written” in front of “consent” in article 11(3).	The amendments have been made in response to the Examining Authority’s supplementary agenda additional question ISH1.A.13, and in order to provide greater precision.
Article 13	The words, “stopping up” and similar derivatives have been replaced with, “closure” and associated derivatives.	The Applicant notes that, “temporary stopping up” is a recognised and precedented form of DCO drafting in relation to powers to close etc. streets. However, the Applicant has made the amendments suggested in the Examining Authority’s supplementary agenda additional question ISH1.A.16.
Article 13	Insertion of words, “or a class of traffic” in article 13(1)(a).	The amendments have been made in response to the Examining Authority’s supplementary agenda additional question ISH1.A.17, and in order to provide greater precision.
Article 17	Insertion of the word, “closure” in article 17(1)(d) and insertion of reference to article 10 in article 17(1)(e).	The first amendment is consequential as a result of the amendment to Article 13 explained above. The second amendment was an unintentional omission that has now been corrected.
Article 18	Reference to Schedule 1 has been replaced with a reference to Schedule 4.	This amendment has been made to correct a cross-referencing error that was brought to the Applicant’s attention as a result of the Examining Authority’s supplementary agenda additional question ISH1.A.20.
Article 19	Insertion of the words, “pursuant to paragraph (1)” in article 19(4).	The amendments have been made in response to the Examining Authority’s supplementary agenda additional question ISH1.A.22, and in order to provide greater precision.

Provision	Change made to the dDCO	Explanation for change
Article 19	Insertion of the words, “as defined under section 113(1) of the Water Resources Act 1991 and” in article 19(8)(c).	The amendments have been made in response to the Examining Authority’s supplementary agenda additional question ISH1.A.22, and in order to provide greater precision.
Article 21	Deletion of the words, “and on the Secretary of State” in article 21(2),	This is an error that is being corrected. It was brought to the Applicant’s attention as a result of the Examining Authority’s supplementary agenda additional question ISH1.A.24, and in order to provide greater precision.
Article 26	Insertion of the words, “(compulsory purchase under the Acquisition of Land Act 1981)” in article 26(1)(a).	The amendment has been made in response to the Examining Authority’s supplementary agenda additional question CAH.A.02, and in order to provide greater precision.
Article 27	Insertion of the word, “such” in article 27(1).	The amendment has been made in response to the Examining Authority’s supplementary agenda additional question CAH.A.03, and in order to provide greater precision.
Article 28	Insertion of the words, “and restrictions” in article 28(1), 28(3) and 28(4). Replacement of the word, “it” with, “the land” in article 28(7)(a)(ii), 28(7)(a)(iii) and 28(7)(a)(iv). Replacement of the word, “it” with “the agreement” in article 28(b).	The amendment has been made in response to the Examining Authority’s supplementary agenda additional question CAH.A.04, CAH.A.06 and CAH.A.09, and in order to provide greater precision.
Article 29	Insertion of the words, “(compulsory purchase under Acquisition of Land Act of 1946)” in article 29(1).	The amendment has been made in response to the Examining Authority’s supplementary agenda additional question CAH.A.10, and in order to provide greater precision.

Provision	Change made to the dDCO	Explanation for change
Article 30	Replacement of, “4” with “5A” in article 30(8)(b).	The amendment has been made in response to the Examining Authority’s supplementary agenda additional question CAH.A.11, and in order to correct a cross referencing error.
Article 36	Insertion of the words, “or restrictions for the benefit of” and, “relocate” in article 36(1)(c).	The amendment has been made in response to the Examining Authority’s supplementary agenda additional question CAH.A.15, and in order to provide greater precision.
Article 38	Insertion of the words, “(street works in England and Wales)” in article 38(3).	The amendment has been made in response to the Examining Authority’s supplementary agenda additional question CAH.A.16, and in order to provide greater precision.
Article 39	Insertion of the words, “lessee or” in article 39(1).	The amendment has been made in response to the Examining Authority’s supplementary agenda additional question CAH.A.17, and in order to provide greater clarity and precision.
Article 42	Insertion of a new article 42(2) which states: “This article does not relieve the undertaker of any requirement to obtain any permit of licence under any other legislation that may be required from time to time to authorise the operation of the authorised development.”	The amendments have been made in response to the Examining Authority’s supplementary agenda additional question ISH1.A.28, in order to provide absolute clarity that the undertaker is not absolved of the duty to obtain any other permits, licences or permissions that may be necessary to operate the authorised development.
Schedule 1, Work No. 5a	Replacement of the term, “associated” with “related”.	Consequential amendment as a result of an amendment made to the definition of, “authorised development” in article 2.

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Schedule 2, Requirement 1	<p>The definition of a number of documents listed in Schedule 9 of the Draft DCO as certified documents has been updated. These are:</p> <ul style="list-style-type: none"> - Design Principles - Outline transport related impacts monitoring and mitigation approach - Strategic landscape masterplan 	The amendments have been made in response to the Examining Authority’s supplementary agenda additional question ISH1.A.03 in order to provide greater precision.
Schedule 2, Requirement 1	Insertion of the definition of, “business day”.	This definition was previously found in Requirements 34 and 37, but to avoid duplication the definition has now been moved to the Interpretation section of Schedule 2.
Schedule 2, Requirement 1	Insertion of the definition of, “infant”.	This definition has been added as a result of the amendment to the definition of, “passenger” which has been amended as a result of the Examining Authority’s supplementary agenda additional question ISH1.S2.04.
Schedule 2, Requirement 1	Amendment to the definition of, “passenger”.	This definition has been amended as a result of the Examining Authority’s supplementary agenda additional question ISH1.S2.04 and in order to remove any ambiguity.
Schedule 2, Requirement 2	Insertion of “design principles” at 2(1)(a).	This has been added in tandem with the removal of, “in general accordance” from Requirement 5. It is considered appropriate, given the long term development programme for the expansion of the airport, to have a mechanism to amend the Design Principles [APP-225] in the same way that other “finalised” control documents at (b) to (d) can be subject to future amendment.

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Schedule 2, Requirement 5	Amendment in relation to detailed design: this must now be, “in accordance with” the design principles.	As a result of discussions at Issue Specific Hearing 1, the Applicant has reviewed its drafting and agrees that the detailed design should be, “in accordance with” rather than, “in general accordance with” the design principles.
Schedule 2, Requirement 8	Amendment in relation to Code of Construction Practice (CoCP): this must now be, “in accordance with” the CoCP.	As a result of discussions at Issue Specific Hearing 1, the Applicant has reviewed its drafting and agrees that the authorised development must be carried out, “in accordance with” the CoCP and subsequent plans approved under it.
Schedule 2, Requirement 9	Amendment in relation to landscaping design: this must now be, “in accordance with the principles” set out in the strategic landscape masterplan.	As a result of discussions at Issue Specific Hearing 1, the Applicant has reviewed its drafting and agrees that the landscaping design should be, “in accordance with the principles” rather than simply, “reflecting” the principles.
Schedule 2, Requirement 12	Insertion and deletion of text at 12(2).	To bring the drafting in line with DCO drafting precedent. This point was raised by the Examining Authority’s supplementary agenda additional question ISH1.S2.13.
Schedule 2, Requirement 13	<p>Replacement of “the” with “a” in 13(1).</p> <p>Insertion of, “the lead local flood authority and the relevant sewerage undertaker” in 13(1).</p> <p>Deletion of “reflect” and insertion of “in accordance with” in 13(2).</p> <p>Replacement of “constructed” with “carried out” in 13(3).</p>	<p>The first amendment has been made for clarity and grammatical correctness, and to ensure that this is not read a reference to an existing plan.</p> <p>The second amendment has been made to ensure that the relevant planning authority cannot approve a surface and foul water drainage plan until it has consulted with the lead local flood authority and the relevant sewerage undertaker, in addition to the Environment Agency which had previously already been listed as a consultee. This point was raised by</p>

Provision	Change made to the dDCO	Explanation for change
		<p>the Examining Authority’s supplementary agenda additional question ISH1.S2.14.</p> <p>The third amendment has been made as a result of discussions at Issue Specific Hearing 1. The Applicant has reviewed its drafting and agrees that the surface and foul water drainage plan should be, “in accordance with” rather than, “reflect” the principles set out in the Drainage Design Statement [APP-137].</p> <p>The fourth amendment has been made in response to the Examining Authority’s supplementary agenda additional question ISH1.S2.16.</p>
Schedule 2, Requirement 14	Deletion of, “constructed” and replacement with, “carried out” in 14(3).	Amendment made in response to the Examining Authority’s supplementary agenda additional question ISH1.S2.16.
Schedule 2, Requirement 15	Deletion of, “constructed” and replacement with, “carried out” in 15(3).	Amendment made in response to the Examining Authority’s supplementary agenda additional question ISH1.S2.16.
Schedule 2, Requirement 23	Insertion of new paragraphs (2), (7) and (12), and consequential numerical amendments.	<p>Amendments made to clarify the process in relation to an exceedance of a Level 2 Threshold:</p> <ul style="list-style-type: none"> - (2) Where more than one Level 2 Threshold is exceeded in relation to the same topic, the undertaker may address all of these exceedances in one draft Level 2 Plan, rather than in separate plans for each exceedance. The

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		<p>rationale for this is that the mitigation measures are likely to be similar and/or overlapping.</p> <ul style="list-style-type: none"> - (7) provides clarification about the process in the instance that a Level 2 Plan has been refused by the Environmental Scrutiny Group (ESG). - (12) Similarly to (2), where both a Level 2 Threshold and a Limit have been exceeded and both relate to the same topic, the undertaker may address all exceedances in the same Mitigation Plan. The rationale for doing so is the same as set out for (2) above.
Schedule 2, Requirement 24	Insertion of new paragraphs (2) and (7), and consequential numerical amendments.	<p>Amendments made to clarify the process in relation to an exceedance of a Limit:</p> <ul style="list-style-type: none"> - (2) Where more than one Limit is exceeded in relation to the same topic, the undertaker may address all of these exceedances in one draft Mitigation Plan, rather than in separate plans for each exceedance. The rationale for this is that the mitigation measures are likely to be similar and/or overlapping. - (7) provides clarification about the process in the instance that a Mitigation Plan has been refused by the ESG.
Schedule 2, Requirement 25	Amendment to 25(1) and insertion of a new 25(5).	<p>To clarify that the undertaker must not only review the implementation of Part 3 of Schedule 2 of the Draft DCO, but that the review also relates to any Monitoring Plans in place.</p> <p>The insertion of paragraph (5) allows for the Terms of Reference of the ESG to be deemed varied in the case of the scenario falling under sub-paragraphs (2) and (3),</p>

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		which allows the undertaker to apply for a modification to the specified periods of time.
Schedule 2, Requirement 26	Removal of the phrase “comprised in the authorised development”.	In response to comments received at ISH1, the Applicant is no longer employing the phrase “airport comprised in the authorised development”. Instead, this requirement will apply the passenger cap to the operation of the “airport” under the Order. This wording is now consistent with Requirement 27.
Schedule 2, Requirement 27	Amendment made to remove the possibility for the undertaker to increase the night quota cap.	In response to comments received during the recent issue specific hearings, this provision has been amended to remove the in-built “tail piece” mechanism to vary this cap, that was previously contained in Requirement 27 .
Schedule 2, Requirement 28	Replacement of “authorised development” with “airport”.	This amendment applies the requirement to the “airport”, consistent with the approach taken in the other operational Requirements (26-27 and 29-33).
Schedule 2, Requirement 34	Deletion of the definition of, “business day”.	Consequential amendment as a result of the insertion of this definition in Requirement 1.
Schedule 2, Requirement 34	Amendment to the definition of, “discharging authority”.	Amendments made to refer to the fact that a discharging authority is one from whom a consent, approval or agreement, “referred to in Part 1, Part 2 or Part 4” of Schedule 2 is required or requested. Amendment has been made for greater precision.
Schedule 2, Requirement 34	Insertion of definition of, “specified period”.	Amendments made for clarity to define what a specified period means so that it can be used as a defined term in later requirements.

Provision	Change made to the dDCO	Explanation for change
Schedule 2, Requirement 35	Amendment to 35(1).	Consequential amendments as a result of changes to the definition of, “discharging authority” and the addition of the definition of “specified period” in Requirement 34.
Schedule 2, Requirement 36	Amendments to 36(2) and 36(3) to refer to, “paragraph” rather than “requirement”.	The change has been made for consistency to ensure that references within Schedule 2 are to paragraphs within the schedule rather than requirements. Amendment made in response to the Examining Authority’s supplementary agenda additional question ISH1.S2.01.
Schedule 2, Requirement 37	Deletion of the definition of, “business day”.	Consequential amendment as a result of the insertion of this definition in Requirement 1.
Schedule 6	<p>Insertion of the words, “(measure of compensation in case of severance)” in 2(2).</p> <p>Insertion of the words, “or imposed on” in 2(2)(a)</p> <p>Insertion of the words, “(powers of entry)” and “(as modified by paragraph 7 of Schedule 6 to the London Luton Airport Expansion Project Development Consent Order 202[])” in 3(2)(a)</p> <p>Replacement of “13” with “12” in 3(2)(b).</p> <p>Insertion of the words, “Part 1 of” in the heading above paragraph 4.</p> <p>Insertion of the words, “of the London Luton Airport Expansion Project Development Consent Order 202[]” in 10 – (1) of Schedule 2A.</p>	The amendments have been made in response to the Examining Authority’s supplementary agenda additional questions CAH.S6.01, CAH.S6.02, CAH.S6.03 and CAH.S6.04 , and in order to provide greater precision.