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London Luton Airport Expansion

Planning Inspectorate Scheme Ref: TR020001

Volume 8 Additional Submissions (Examination)

**8.39 Applicant's response to Written Representations
made by Affected Persons at Deadline 1 (Part 3)**

Infrastructure Planning (Examination Procedure) Rules 2010

Application Document Ref: TR020001/APP/8.39

The Planning Act 2008

The Infrastructure Planning (Examination Procedure) Rules 2010

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

**8.39 APPLICANT'S RESPONSE TO WRITTEN REPRESENTATIONS
MADE BY AFFECTED PERSONS AT DEADLINE 1 (PART 3)**

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5 RESPONSE TO WRITTEN REPRESENTATIONS MADE BY AFFECTED PERSONS

- 5.1.1 This section provides a response to the matters raised by Affected Persons. An Affected Person is defined in Rule 2(1) of the Infrastructure Planning (Examination Procedure) Rules 2010 as meaning a person who has been included in a notice under section 59 of the Planning Act 2008 (notice of persons interested in land to which compulsory acquisition request relates).
- 5.1.2 Whilst some of the matters raised by Affected Persons may have been considered in the common topics discussed in Part 2 of this document, the Applicant considers that the Written Representations submitted by Category 1 and 2 Affected Persons require a specific response. The Applicant will continue to engage on these matters throughout the course of the Examination.
- 5.1.3 The Applicant has used its best endeavours to identify all Affected Persons. Should it transpire that an Affected Person has been overlooked then a response will be provided if required.
- 5.1.4 The Relevant Representation reference, Affected Person(s) names and the Applicant's response is set out in Table 5.1.

Table 5.1: Response to Written Representations made by Affected Persons

Interested Party and Examination Library Reference	Response Topic	Written Representation (Verbatim)	Luton Rising's Response
<p>Derek Bromley on behalf of ATO Holdings</p> <p>REP1-051</p>	<p>Land and compensation</p>	<p>1 Bidwells acts on behalf of ATO Holdings Ltd. Our client owns plots 7-44 comprising of 15,217 sq m and plots 7-18 and 7-20, and is a Statutory Objector.</p> <p>2 We wish to be heard at the Examination Session "Principle Issue item 4" Compulsory acquisition and the temporary possession of land and rights.</p> <p>3 The acquiring authority proposes to take a land interest from ATO Holdings who are Statutory Objectors to the Development Control Order and wish to be accepted as an Interested Party.</p> <p>4 In respect of our clients land the DCO refers the acquiring authority intend to exercise the following 'the rights and restricted covenants to install, protect, implement, retain, repair, improve, renew, remove, relocate and plant hedgerows, associated plants and supporting infrastructure together with the right to maintain, inspect and replant: and the right to pass and repass on foot, with or without vehicles, plant and machinery for all</p>	<p>Noted.</p>

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		<p>purposes in connection with the implementation and maintenance of hedgerows in connection with the authorised development'.</p>	
<p>Derek Bromley on behalf of ATO Holdings REP1-051</p>	<p>Land and Compensation</p>	<p>We have not seen a draft of the wording of the proposed restrictive covenants and rights. As the enforceability of restricted covenants against successors in title can be more problematic, we are assuming it will be necessary that any successor in title enters into a Deed of Covenant with restrictions entered on the Land Registry Title. We have not seen to terms of the Deed of Covenant.</p>	<p>A deed of covenant is being prepared and will be sent to ATO Holdings shortly. The rights/restrictive covenants sought are set out in Schedule 5 of the dDCO [AS-067]:</p> <p><i>“The rights and restrictive covenants to install, protect, implement, retain, repair, improve, renew, remove, relocate and plant hedgerows, associated plants and supporting infrastructure together with the right to maintain, inspect and replant; and the right to pass and repass on foot, with or without vehicles, plant and machinery for all purposes in connection with the implementation and maintenance of hedgerows in connection with the authorised development”</i></p> <p>It will be necessary for any successor in title to be bound to this covenant.</p>
<p>Derek Bromley on behalf of ATO Holdings</p>	<p>Land and Compensation</p>	<p>Restrictive covenants by their nature requires the owners not to do something. In addition to imposing the restrictive covenants, the acquiring authority also</p>	<p>The areas of land included in the limits of the DCO provide for all rights of access that would be required by the Applicant to secure the landscaping commitments proposed.</p>

Interested Party and Examination Library Reference	Response Topic	Written Representation (Verbatim)	Luton Rising's Response
REP1-051		<p>seek rights in connection with the planting of new hedgerows on our clients' land and to maintain and replant together with a right of access with vehicles. Given the length of hedgerows involved and new planting proposed, vehicle and mechanical access would be required either side of the hedgerows. Future maintenance will involve a tractor and hedge cutter and would require a strip either side of the hedge of something in the order of 5m, that is around 12 metres in total allowing for the depth of the hedgerow. The DCO plan 'Land and Crown Land Plans - Reg 5 (2)(i) and 5 (2)(n) sheets 3 and 7 and 10 shows the extent of the hedging to be reclaimed, reinforced and augmented with new hedge planting. The new hedge planting (parallel with the footpath) which traverses the field will sever the existing field, preventing access and creating two separate field parcels, one of which will have no access. These rights/works (work number 5e) are intended to be exercised between 2025 and 2027. As will be seen from the plans, Plot 7-44 surrounds the edge and traverses the field which is used for agriculture with a serial crop rotation. It is a</p>	<p>It is acknowledged that one of the existing arable fields would be severed with the introduction of a new hedgerow along the route of a public footpath running through the field, but an access would be re-provided to enable the passage of farm machinery and otherwise compensation paid for any loss or damage.</p>

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		single field, crossing the field is a PROW, but this footpath does not prevent or hinder agricultural cultivations and harvesting.	
Derek Bromley on behalf of ATO Holdings REP1-051	Planning	Plot 7-44 forms part of a Green Belt release for housing and is an allocated housing site in the adopted Local Plan. The planting of new hedgerows, protection and augmenting existing hedgerows will impact upon the delivery of much need housing and impede the efficient and effective use of land for housing, contrary to the National Planning Policy Framework. The consequence of not making effective and efficient use form housing will bring pressure to release other Green Belt land elsewhere to meet any reduction in housing numbers. At present in compliance with Local Plan policy a Strategic Master Plan is in the process of being prepared. Whilst there are iterations in circulation these are not agreed by Stakeholders or the Councils Design Review Panel, indeed objections have been already been made. The Strategic Master Plan will be the subject of public consultation before it is submitted to the Council, which will then decide whether to approve. This process will therefore take some time to complete.	The hedgerow restoration in the area referred to is for landscape and visual mitigation. It is understood that this land is not under Luton Rising ownership and appropriate rights to undertake works in these areas will be secured by the DCO. Should consent for other development in these areas result in this work not being required, they would not be delivered. The Strategic Masterplan is embryonic and will need to have regard to the landscape mitigation measures proposed. Making the most efficient use of land must be considered qualitatively as well as quantitatively.

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		<p>Until that process has been finalised planning applications will not be determined. This brings into play the time scales for works 2025 -2027.</p>	
<p>Derek Bromley on behalf of ATO Holdings REP1-051</p>	<p>Land and Compensation</p>	<p>Given the width of strips either side of the hedgerows required, which will be subject to restrictive covenants and rights, the acquiring authority will be exercising rights over those strips of land which effectively provides a degree and level of control which is tantamount to freehold ownership. For that reason, our client seeks an amendment to the DCO whereby the acquiring authority is compelled to acquire the freehold interest of these strips, but reserving to the claimant and successors in title the rights to enter onto the strips, to construct and thereafter maintain vehicular, pedestrian, cycle access and to lay and maintain services and that the acquiring authority will enter into any future adoption agreements that maybe required. This will ensure that the acquisition of the land does not impede the use of the retained land for agriculture or sterilise development for much needed housing and in so doing will reduce the level of compensation payable to the claimant.</p>	<p>The Applicant has requested access to powers of compulsory acquisition for land and rights that it considers are necessary and proportionate to deliver the Proposed Development.</p> <p>Use of compulsory acquisition powers will remain an option of last resort and rather than make an amendment to the draft DCO the Applicant will engage further with the Interest Holder with a view to reaching a mutually workable solution given the concerns raised.</p> <p>Whilst an initial request to meet was declined we are now engaged in discussions to try to resolve the concerns raised.</p>

Interested Party and Examination Library Reference	Response Topic	Written Representation (Verbatim)	Luton Rising's Response
Derek Bromley on behalf of ATO Holdings REP1-051	Land and Compensation Landscape and Visual Impact	Plots 7-18 and 7-20 it will be evident from site inspection that there is no need to acquire plot 7-20 as it does not serve any of the purposes for the proposed taking of restrictive covenants or rights. The proposed acquisition is to provide visual amenity from public vantage points. Plot 7-20 comprises a narrow strip of land adjoining buildings. Its acquisition for the purposes of protecting visual amenity simply do not apply. There is no necessity for the imposition of restricted covenants or the exercise of rights. The concerns expressed above in relation to Plots 7-44 in relation to hedge maintenance equally applies to Plot 7-18.	The Applicant considers that the issue raised regarding Plots 7-18 and 7-20 was answered within the Applicant's Response to Relevant Representations Part 3 of 4 (Affected Persons) [REP1-026] page 63, in response to RR-0002.