

Planning Act 2008 (as amended) Section 89 The Infrastructure Planning (Examination Procedure) Rules 2010 (as amended) – Rule 17 Application by London Luton Airport Limited for an Order granting Development Consent for the proposed London Luton Airport Expansion Project Request for further information and written comments

Decision on the Town and Country Planning Act 1990 (Section 77) application made by London Luton Airport Operations Ltd to vary five conditions (8, 10, 22, 24 and 28) attached to the previous planning permission Ref 15/00950/VARCON, dated 13 October 2017

Dacorum Borough Council (20040781), Hertfordshire County Council (20040777), North Hertfordshire District Council (20040773)

1. In its letter of 13th October 2023 the Examining Authority issued a request for further information and written comments from the Applicant and all Interested Parties in relation to the Secretaries of State for Levelling Up, Housing & Communities and Transport joint decision on the Town and Country Planning Act 1990 (Section 77) application made by London Luton Airport Operations Ltd.

2. The authorities are of the view that it is predominantly the role of the Applicant to identify and assess the implications of the decision on its application and to advise the Examining Authority and Interested Parties of those implications. The authorities will respond to the Applicant's assessment (and of other parties) in due course, as necessary. In advance, the authorities have the following observations.

i. 'Implications'

3. The authorities take the view that the implications of the decision should relate only to matters that may have an impact upon the technical assessments undertaken and outcomes anticipated from the DCO that the Examining Authority will rely upon in making its recommendations.

ii. Principle of precedent for growth, transfer of judgements about benefit or disbenefits and policy compliance

4. The decision has been made solely on the basis of the assessment of both the positive and negative implications of the additional 1mppa to take consented throughput from 18mppa to 19mppa and the application of relevant policy in light of those implications. That is all it could have done. It sets no precedent or implied in-principle support for growth at any scale of growth other than the additional 1mppa, neither should any value (benefit/disbenefit) judgements made by the Secretaries of State be transposed as if they could apply in any way to this application.

iii. Methodological approaches/assumptions

5. There are a range of conclusions within the decision that make judgements about methodological approaches. Whilst these are not strictly 'implications' of the decision, they do provide a substantive recent steer for the consideration of the

application which the Examining Authority may wish to be mindful of. By way of example:

- **Appropriate Baseline (e.g., paras 13, 15.3-8)** – confirmation that the appropriate baseline for use in consideration of the various effects of growth at the airport is provided by the 2017 permission).
- **Confirmation of A-weighted sound pressure level (LAeq) and role of other metrics (e.g., paras 14 and 15.18-15.22)** – equivalent continuous A-weighted sound pressure level (LAeq) is of importance in considering the noise effects of the proposal, with other metrics of assistance in contributing to the overall picture.
- **Fleet modernisation/reducing the number of flights (e.g., paras 16, 15.40, 15.62)** – reasonable to assume that the airlines would be keen to implement the modernisation programmes which they have announced, leading to quieter aircraft. But as this is outside the direct control of the operator, noise restrictions are required to potentially curtail passenger throughput until the predicted number of quieter aircraft had been introduced.
- **M1 best (85%) route choice (e.g., paras 27,15.108, 15.111-116)** – the decision rehearses issues examined at the Inquiry with regard to the use of the CAA Passenger Survey Report data on the origin of passengers to support the applicant's position that:
 - the M1 would be the best route of choice for most car journeys by staff and passengers.
 - 53.6% of all passengers come from the South-East of England and 32.8% come from the East of England.

6. In response to concerns from the Panel relating to the lack of information about the distribution of traffic, the applicant produced further information for the Inquiry on traffic flows and about alternative routes to the airport from parts of the East of England, using trip times estimated from Google Maps. Whilst the additional information provided by the Applicant at the inquiry has assured the Panel and the Secretaries of State that the assessment was soundly based and robust, the decision appears to leave some question marks with regard to the M1 85% and 53.6% South East/32.8% East of England split – referring to the evidence as only 'reasonable'. It would be beneficial for the ongoing engagement between the applicant and highway authorities to provide clarity on the approach taken to origin/destination/distribution.

iv. Lifting the baseline – 19mppa sensitivity tests

7. Paragraph 5.4.38 and Table 5.4 of AS-075 recognise that the 19mppa proposal was in the process of determination and that as a consequence the environmental assessments include sensitivity analysis of the implications of the permitted cap increasing to 19 mppa. The 19mppa sensitivity test is described as:

- *'19 mppa Application – There is a possibility that the current operator's (LLAOL) planning application to increase the capacity of the airport to 19 mppa is granted*

by the SoS, and that permission is granted prior to submission or during the determination of the application for development consent for the Proposed Development. This would have the effect of lifting the baseline capacity assumed in this assessment from 18 to 19 mppa and has been considered qualitatively across all aspects where adverse effects would be reduced relative to the Core Planning Case assessment, and where benefits would be reduced, that is, for Economics and Employment.'

8. It is then possible to look to where the Environmental Statement identifies where a 19mppa sensitivity test is appropriate and reports on it. By way of example, at:

- Table 7.10 of 5.01 Environmental Statement – Chapter 7 – Air Quality (AS-076)
- Table 16.74 of 5.01 Environmental Statement – Chapter 16 – Noise and Vibration (REP1-003)
- Table 11.18 of 5.01 Environmental Statement – Chapter 11 – Economics and Employment (APP-037)
- Table 12:23 of 5.01 Environmental Statement – Chapter 12 – Greenhouse Gases (REP3-007)
- Table 13.18 of 5.01 Environmental Statement – Chapter 13 – Health and Community AS-070
- Table 19.55 of 5.01 Environmental Statement – Chapter 19 – Waste and Resources (AS0-081)
- Table 20:15 of 5.01 Environmental Statement – Chapter 20 – Water Resources and Flood Risk
- Table 14.7 of 5.01 Environmental Statement – Chapter 14 – Landscape and Visual (AS-079)

9. On the whole the sensitivity tests find that changing the baseline from 18mppa to 19mppa has no or very limited impact upon the assessments within the Environmental Statement.

v. dDCO Articles 44 and 45 Interaction with LLAOL planning permission/ Application of the 1990 Act

10. The 19mppa consent becomes that operative for the purposes of Articles 44 and 45 of the dDCO. The direct implication of the decision is that it will serve to delay the triggering of the operation of the green controlled growth (GCG) regime and wide range of operational requirements. The authorities assume that the applicant will provide the ExA with a comprehensive assessment of those requirements and will respond to that, as necessary.

vi. 7.10 Draft Compensation Policies, Measures and Community First (REP2-005)

11. Notwithstanding v.:

Community First

12. At para 8.1.7 REP2-005 confirms that Community First will be provided at a fixed rate of £1 of funding for every additional passenger above the planning cap current at the time that the Development Consent Order is made, per year. At full capacity this would generate up to £14m per year. As well as delaying the implementation of operation of Community First (communities would lose out on benefit in the 18mppa-19mppa growth phase on an ongoing basis) the total annual fund available in the future would be capped at £13mppa, rather than 14mppa.

13. A direct implication of the decision will be to delay the commencement of implementation of Community First and ultimately at full operation will reduce the annual amount of funding available from £14 million to £13 million.

Noise Insultation Scheme

14. Paragraph 6.1.13 of REP2-005 confirms that the proposed Noise Insultation Scheme will become operative when the Applicant serves notice on the relevant planning authority under article 44(3) of the DCO. Until that time, the existing scheme will continue to apply.

15. A direct implication of the decision will be to delay the commencement of implementation of the Noise Insultation Scheme.